



*All who have meditated in  
the art of governing mankind  
have been convinced that the  
fate of empires depends on  
the education of the youth.*

*Aristotle*

# 1997 Final Legislative Report

*Fifty-fifth Washington State Legislature  
1997 Regular Session*



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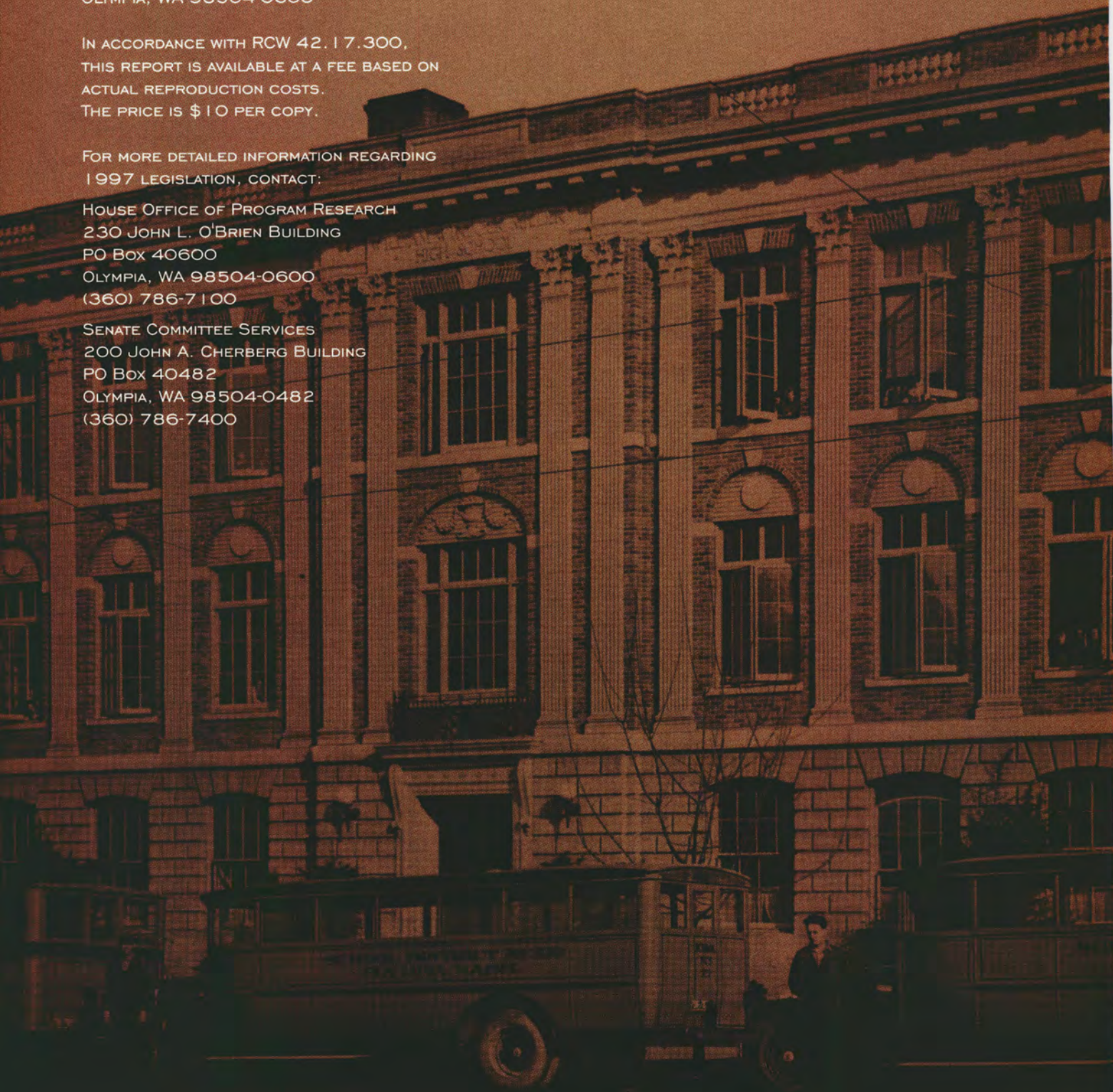
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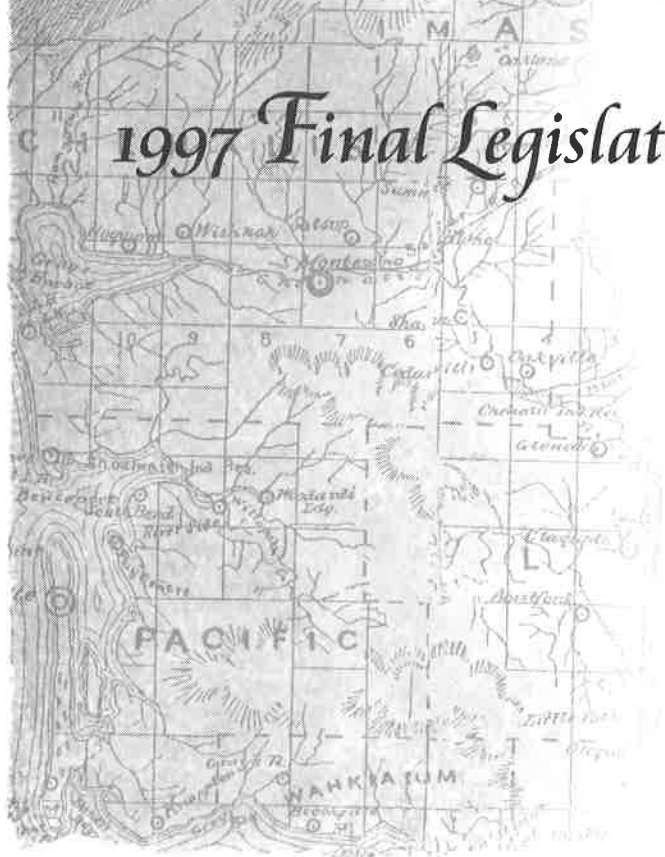
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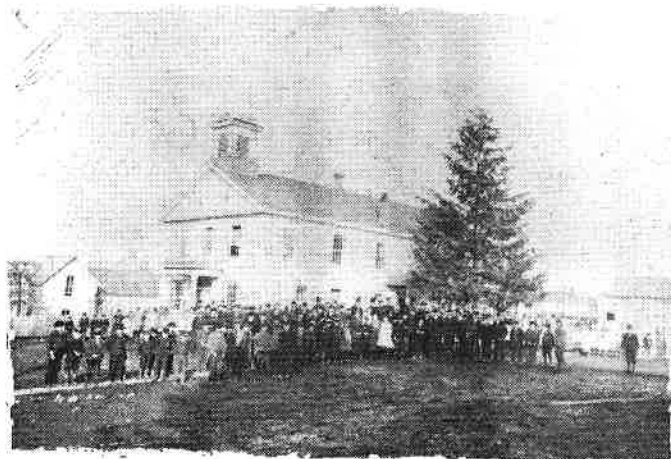


*This issue of the 1997 Final Legislative Report displays a collection of photos focusing on the history of education in Washington State.*

**Left:** William Winlock Miller (Olympia) High School bus drivers waiting for students to board. Early 1900s.

**Above:** Schoolhouse and class at what is now Dupont, circa 1880.

**Right:** Gathering at a high school in Olympia, circa 1882. Northeast corner of Union and Washington streets.



*Photos provided by the Washington State Library.*

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Well before Washington's statehood in 1889, pioneers in education were heralding the value of public education in the territory. As the first rudimentary schools were forming in the early 1850s, territorial leaders were working to organize and finance a common education system for the people of the territory.

**Above:** Classmates from Old Bush Prairie School in Thurston County, circa 1910.

## Statistical Summary

*1997 Regular Session of the 55th Legislature*

<b>Bills Before Legislature</b>	<b>Introduced</b>	<b>Passed Legislature</b>	<b>Vetoed</b>	<b>Partially Vetoed</b>	<b>Enacted</b>
<i>1997 Regular Session (January 13 - April 27)</i>					
House	1,293	263	29	33	234
Senate	1,115	256	34	30	222
<b>TOTALS</b>	<b>2,408</b>	<b>519</b>	<b>63</b>	<b>63</b>	<b>456</b>

<b>Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature</b>	<b>Introduced</b>	<b>Filed with the Secretary of State</b>
<i>1997 Regular Session (January 13 - April 27)</i>		
House	50	5
Senate	38	7
<b>TOTALS</b>	<b>88</b>	<b>12</b>
<b>Initiatives</b>	<b>0</b>	<b>1</b>

<b>Gubernatorial Appointments</b>	<b>Referred</b>	<b>Confirmed</b>
<i>1997 Regular Session (January 13 - April 27)</i>	138	77



# 1997 Final Legislative Report

## SECTION I Legislation Passed

*Numerical List*

*Initiative 655*

*House Bill Reports and Veto Messages*

*House Memorials and Resolutions*

*Senate Bill Reports and Veto Messages*

*Senate Memorials and Resolutions*

*Sunset Legislation*

*For the earliest settlers in Washington, schoolhouses were small log cabins, furnished with rude desks. The first schools were often attended by only a few children and were more in the nature of private schools than public schools.*

**Above:** Methow; Okanogan County. This log cabin served as schoolhouse on Squaw Creek before the turn of the century.

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## I 655

C 1 L 97

Methods of taking wildlife.

By People of the State of Washington.

**Background:** The Director of the Department of Fish and Wildlife may authorize the removal or killing of wildlife that is destroying property, or when necessary for management and research. The director disposes of the wildlife taken in a manner serving the best interests of the state and any proceeds obtained are credited to the state wildlife fund. The director may enter into written agreements to prevent damage to private property by wildlife.

The Department of Fish and Wildlife regulates the use of hounds and issues hound stamps if dogs are used to hunt certain species, during specified time periods, and in identified areas.

**Summary:** It is unlawful to take, hunt, or attract black bear with the aid of bait. Bait is defined as any substance placed, exposed, deposited, distributed, scattered, or otherwise used to attract black bears with the intent of hunting them. This provision does not apply to: government agents protecting private property or livestock, preserving public safety, establishing and operating feeding stations to prevent damage to commercial timber land, or scientific and educational purposes under a permit or memorandum issued by the director.

It is unlawful to hunt or pursue black bear, cougar, bobcat, or lynx with the aid of a dog or dogs. This provision does not apply to: government agents protecting private property or livestock, preserving public safety, or scientific and educational purposes under a permit or memorandum issued by the director. An owner or tenant of real property can use a dog or dogs to hunt or pursue black bear, cougar, bobcat, or lynx with a permit issued and conditioned by the director.

Violation of the provisions is a gross misdemeanor. In addition to criminal penalties, the director must revoke the individual's hunting license and refrain from issuing a hunting license to that person for a period of five years following revocation. After a second violation, the person is permanently precluded from obtaining a hunting license.

**Effective:** December 5, 1996

## HB 1002

C 92 L 97

Clarifying submission of insurance antifraud plans.

By Representatives L. Thomas, Dyer and Mielke.

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** In 1995, the Legislature passed legislation to combat insurance fraud in Washington State. The legislation requires every direct insurer licensed in Washington to prepare and maintain an insurance antifraud plan. A direct insurer sells directly to consumers. Most of the insurance companies in the state are direct insurers.

The antifraud plan must establish procedures to reduce insurance fraud. The procedures must address preventing fraud by employees or agents of the company, preventing fraudulent applications, and preventing claims fraud. Direct insurers must also establish procedures to report insurance fraud to law enforcement officials, to undertake civil action when appropriate, and to train employees and agents in detecting and preventing insurance fraud.

**Summary:** Title insurance companies, life insurance companies, health carriers (health insurers, health maintenance organizations, and health care service contractors), and some medical malpractice insurers are not required to prepare or maintain insurance antifraud plans. Most credit-related insurance is not subject to antifraud plan requirements.

**Votes on Final Passage:**

House	97	0
Senate	42	0

**Effective:** July 27, 1997

## SHB 1003

C 93 L 97

Redefining "special assessment" for the purposes of tax deferrals for senior citizens and disabled persons.

By House Committee on Finance (originally sponsored by Representatives Pennington, Hatfield, Mielke, Thompson, Cole, DeBolt, D. Sommers, Conway, Boldt, Alexander, Schoesler, Kessler, Bush, Smith, Dyer and O'Brien).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Senior citizens or disabled persons with household incomes below \$34,000 may defer property taxes and/or special assessments on their homes. Cities, towns, counties, or other municipal corporations may impose special assessments for a variety of purposes such as road or sewer improvements. Special assessments are charges or obligations imposed upon property specially benefited by a local improvement.

Under administrative practice, special assessments associated with physical improvements may be deferred, but special assessments imposed for less tangible benefits, such as weed or mosquito control, may not be deferred.

## SHB 1007

**Summary:** For the purposes of tax deferral, the definition of "special assessment" is modified to remove the phrase making a special assessment one that is benefitted by a "local improvement." Under the new definition, a special assessment includes any charge or obligation imposed by local government on property specially benefitted.

**Votes on Final Passage:**

House	97	0
Senate	47	0

**Effective:** April 21, 1997

## SHB 1007

C 8 L 97

Expanding the duties of the director of the Washington state pollution liability insurance agency.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas and Wolfe; by request of Pollution Liability Insurance Agency).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** After reviewing several proposals to assist owners of underground storage tanks (UST) to comply with federal financial responsibility regulations, the Legislature adopted a state pollution liability reinsurance program in 1989. The program provides insurance to insurance companies (reinsurance) who, in turn, provide insurance to UST owners and operators. The program is administered by the Pollution Liability Insurance Agency (PLIA). In 1991, the Legislature established the Underground Storage Tank Community Assistance Program in the PLIA to provide financial assistance to public and private owners and operators of underground storage tanks that meet vital local government, public health, and safety needs.

In 1995, the Legislature required the PLIA to develop and administer a program to provide pollution liability insurance coverage for all heating oil tanks in Washington. These tanks are exempt from financial responsibility regulations that apply to USTs, but they can still cause pollution. The PLIA began this program on January 1, 1996.

Generally, property owners are liable for pollution that occurs on their property. When selling real property, a person is required to disclose known defects. A written disclosure statement must be made by the seller to the buyer when selling residential property; this statement includes disclosure of possible environmental hazards from fuel storage tanks.

**Summary:** The director of the Pollution Liability Insurance Agency must establish a program providing advice and technical assistance to owners and operators of active

or abandoned heating oil tanks. This advice and assistance may include site assessments; the director may provide written opinions and conclusions indicating there is little or no contamination at the site. The state is not liable for the consequences of providing or failing to provide advice, opinions, conclusions, or assistance. The PLIA must establish a public information program regarding technical and environmental requirements associated with heating oil tanks. The PLIA is authorized to recover the costs of providing advice or assistance. These new responsibilities expire June 1, 2001.

**Votes on Final Passage:**

House	97	0
Senate	47	0

**Effective:** July 27, 1997

## SHB 1008

C 291 L 97

Standardizing issuance of license plates.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Robertson, Fisher, Chandler, Hatfield, Johnson, Zellinsky and L. Thomas).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The 1996 supplemental transportation budget directed the Legislative Transportation Committee (LTC) to develop recommendations regarding motor vehicle license plates. The primary impetus for this review was an inordinate number of bills requesting special license plates for fund-raising purposes.

The LTC established a license plate working group, composed of six legislators to spearhead the review. The working group met four times during the interim and developed legislative recommendations aimed at curtailing the number of special license plates.

**Summary:** Special license plates may be issued from the existing series, but the creation of additional special license plate series is prohibited. Furthermore, following an initial issuance period of three years, the Department of Licensing (DOL) is granted the authority to discontinue a special license plate series if sales are nominal.

Except for collector vehicle license plates issued prior to January 1, 1987, Congressional Medal of Honor license plates, and license plates issued for commercial vehicles with a gross weight in excess of 26,000 pounds, all license plates must be issued on a standard background designated by the DOL, effective January 1, 2001.

With a few exceptions (primarily for military service recognition plates), effective January 1, 1998, the original fees for special license plates are set at \$40, with \$12 earmarked for the DOL's administrative costs. Effective

January 1, 1999, special license plate renewals are set at \$30, with \$2 earmarked for the DOL.

To ensure maximum legibility and reflectivity, the DOL shall periodically provide for the replacement of license plates.

**Votes on Final Passage:**

House	83	13	
Senate	21	24	(Senate amended; failed)
Senate	39	9	(Senate reconsidered)
House	86	3	(House concurred)

**Effective:** July 27, 1997

## SHB 1010

C 94 L 97

Establishing procedures for federal transportation pass-through moneys.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Mitchell, Hankins, Cairnes, Skinner and Mielke).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The Department of Transportation (DOT) serves as the conduit for federal transportation funds distributed to counties, cities, metropolitan planning organizations, and transit agencies. The DOT also provides 100 percent reimbursable transportation services for local jurisdictions and private entities. Both federal pass-through and local reimbursable expenditures must be appropriated in the DOT's biennial budget. In the 1997-99 biennium, the DOT will pass through about \$255 million of federal funding and provide about \$20 million in 100 percent reimbursable services to others.

**Summary:** Federal funds that are administered by the Department of Transportation and are passed through to municipal corporations or political subdivisions of the state, and moneys that are received as total reimbursement for services provided by the DOT to other entities, are removed from the transportation budget. To process and account for these expenditures, a new nonappropriated treasury account, named the miscellaneous transportation program account, is created. The DOT is required to provide an annual report to the Legislative Transportation Committee and the Office of Financial Management on expenditures and full-time equivalents processed through this account.

**Votes on Final Passage:**

House	95	0
Senate	45	0

**Effective:** July 1, 1997

## ESHB 1011

### FULL VETO

Exempting state and county ferry fuel sales and use tax.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives K. Schmidt, Johnson, Skinner, Zellinsky, Mitchell, Robertson, Fisher, Hatfield, Hankins, Smith, Dunn, Mielke, Anderson and O'Brien).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation  
Senate Committee on Ways & Means

**Background:** Unless specifically exempted, all vehicle fuels not subject to the motor vehicle or special fuel tax are subject to the retail sales and use tax. Fuel purchased for ferry use is not subject to the fuel tax and is, therefore, subject to the sales and use tax. Public agencies operating ferries in Washington include the Washington State Ferries Division of the Department of Transportation and the counties of Wahkiakum, Whatcom, Skagit and Pierce.

Motor vehicle fuel and special fuel used by urban transportation (transit) systems, or to transport persons with special needs by private, nonprofit transportation providers, are exempt from both fuel tax and retail sales and use tax.

**Summary:** Special fuel (diesel) and motor vehicle fuel (gasoline) purchased to operate ferries owned or operated by the state or a county are exempt from the retail sales and use tax.

**Votes on Final Passage:**

House	72	24
Senate	34	13

### VETO MESSAGE ON HB 1011-S

May 9, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1011 entitled:

"AN ACT Relating to state and county ferries;"

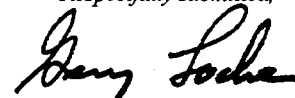
Under current law, entities that are exempt from the fuel tax pay sales and use tax on their fuel. Entities that are exempt from sales and use tax pay the fuel tax.

Engrossed Substitute House Bill No. 1011 would exempt state and county ferries from sales and use tax on fuel they purchase. However, ferries are already exempt from paying the fuel tax on their fuel.

It would be poor precedent to begin allowing some entities to be exempt from both taxes.

For this reason, I have vetoed Engrossed Substitute House Bill No. 1011 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

SHB 1016

C 45 L 97

Transferring property to Washington State University Lind dryland research unit.

By House Committee on Capital Budget (originally sponsored by Representatives Schoesler, Honeyford, McMorris, Carlson, Boldt, Mason, Sheahan, Buck, Ogden, Huff, Grant, Chandler and Clements; by request of Washington State University).

House Committee on Capital Budget  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Natural Resources controls and manages all land acquired by the state by either tax default, gift, or purchase. If the department decides to sell state land, it can be sold either at a public auction or by direct sale to another public agency. State land can also be marketed and sold to private and commercial entities, at a price no lower than the appraised value, if approved by the board of natural resources.

In 1982, Washington was named in a will as beneficiary of a house in the city of Lind and also a 1,000 acre farm, located next to the Washington State University Lind Dryland Research Unit. The benefactor, Cleora Neare, recently died, and the property is about to be deeded to the Department of Natural Resources, consistent with the normal procedure for gifts of land to the state. The land will be managed by the department in the same manner as school lands. The Washington State University Lind Dryland Research unit, which conducts research on dryland farming techniques, has been in the market to purchase farm land in the Lind area to expand the Unit's research activities. After being notified of the willed property, WSU began discussions with the Department of Natural Resources to transfer the farm property to the research unit.

**Summary:** The Legislature finds that it is in the best interest of the state to distribute the property willed to the state by Cleora Neare to Washington State University and to the state's public schools. Washington State University is granted ownership of the farm land located next to the Lind Dryland Research unit without cost other than the cost of probate. The property will become part of the Washington State University Lind Dryland Research unit, and all income from current leases on the land will be deposited into a local account for the benefit of the research unit.

The house in the city of Lind will be sold and the proceeds from the sale deposited into the permanent common school fund.

**Votes on Final Passage:**

House 97 0  
Senate 47 0

**Effective:** July 27, 1997

ESHB 1017

C 209 L 97

Exchanging state-owned aquatic lands with privately owned lands.

By House Committee on Natural Resources (originally sponsored by Representatives Sehlin, Anderson, Koster, Quall, Huff, L. Thomas and Dunn).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Natural Resources (DNR) manages over two million acres of state-owned aquatic lands. These aquatic lands were granted to the state at statehood and include tidelands, shorelands, and bedlands. Approximately 40 percent of the state's original endowment of tidelands, 70 percent of the original shorelands, and all of the state's bedlands remain in public ownership.

The department is authorized to lease and exchange state-owned tidelands and shorelands. State law provides specific guidelines regarding the department's exercise of this authority.

"State-owned aquatic lands" is defined as aquatic lands managed by the Department of Natural Resources or the ports. Aquatic lands managed by other state agencies are specifically excluded from this definition.

The Washington Department of Fish and Wildlife (WDFW) and the Parks and Recreation Commission also manage state lands. Some of the lands managed by these agencies are aquatic lands (tidelands and shorelands).

**Summary:** The management of a 4,166 square foot area of aquatic lands along the Stillaguamish River is transferred from the DNR to the WDFW. The WDFW is authorized to exchange its aquatic land holdings if the exchange would provide significantly better fish and wildlife habitat or public water access.

**Votes on Final Passage:**

House 92 4  
Senate 42 5

**Effective:** April 25, 1997

HB 1019

PARTIAL VETO

C 292 L 97

Implementing the public works board's recommendations for project loans.

By Representatives Honeyford, Ogden, D. Sommers and Mason; by request of Public Works Board.

House Committee on Capital Budget  
Senate Committee on Ways & Means



**Background:** The public works assistance account, commonly known as the public works trust fund, was created by the Legislature in 1985 to provide a source of loan funds to assist local governments and special purpose districts with infrastructure projects. The Public Works Board, within the Department of Community, Trade and Economic Development (CTED), is authorized to make low-interest or interest-free loans from the account to finance the repair, replacement, or improvement of the following public works systems: bridges, roads, water and sewage systems, and solid waste and recycling facilities. All local governments except port districts and school districts are eligible to receive loans.

The account receives dedicated revenue from utility and sales taxes on water, sewer service, and garbage collection; from a portion of the real estate excise tax; and from loan repayments. The cash balance in the account has steadily grown since 1985 because of the delay between project authorization and construction.

Each year, the Public Works Board is required to submit a list of public works projects to the Legislature for approval. The Legislature may delete a project from the list, but may not add any projects or change the order of project priorities. Legislative approval is not required for emergency loans from funds specifically appropriated for this purpose by the Legislature.

The public works assistance account appropriation is made in the capital budget, but the project list is submitted annually in separate legislation. The CTED received an appropriation of \$148.9 million from the public works assistance account in the 1995-97 capital budget. This amount included \$128.9 million in expected revenue to the account and \$20 million from the account's cash balance. Twenty million dollars of the 1995-97 appropriation was provided specifically for preconstruction activity loans. The remaining \$128.9 million is available for public works project loans in the 1996 and 1997 loan cycles. During the 1996 session, the Legislature approved 67 projects totaling \$96,785,915 for the 1996 loan cycle.

**Summary:** Thirty-four public works project loans totaling \$57,720,494 are authorized for the 1997 loan cycle. This authorization includes 15 projects, totaling \$29,960,307, from funds previously appropriated by the Legislature, and 19 projects, totaling \$27,760,187, from a \$25 million supplemental appropriation contained in the act. The supplemental appropriation is from the cash balance that has accumulated within the public works assistance account.

The 34 authorized projects consist of: 1) 17 water projects totaling \$21,537,372; 2) 12 sewer projects totaling \$26,109,602; 3) two road projects totaling \$2,331,995; and 4) three bridge projects totaling \$7,741,525.

The sum of \$1,898,649 is authorized to be used by the Public Works Board to provide emergency loans to local governments.

The Public Works Board is required to ensure that, at the beginning of each fiscal quarter, there is a sufficient fund balance in the public works assistance account to cover the disbursements anticipated during the quarter.

**Votes on Final Passage:**

House	97	0	
Senate	48	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** May 9, 1997

**Partial Veto Summary:** The Governor vetoed the section requiring the board to ensure that a sufficient fund balance exists in the Public Works Assistance Account at the beginning of each fiscal quarter to fund all disbursements anticipated during the quarter.

**VETO MESSAGE ON HB 1019**

May 9, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, House Bill No. 1019 entitled:

"AN ACT Relating to appropriations for projects recommended by the public works board;"

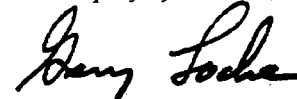
House Bill No. 1019 provides a list of 34 public works projects for funding from the Public Works Assistance Account. It also provides a supplemental appropriation to cover 19 of the projects, listed in section 2 of the bill.

Section 3 of the bill would require the Public Works Board to ensure that at the beginning of each fiscal quarter there is a sufficient cash balance in the public works assistance account to cover the disbursements anticipated during the quarter. I completely agree with the need to maintain sufficient cash reserves. However, the language in the bill would require maintenance of approximately \$35,000,000 in reserves. I believe that amount is far too large. In my proposed capital budget, I recommended a reserve of \$15,000,000. The \$20,000,000 difference can be used to complete projects that are badly needed now.

For these reasons, I have vetoed section 3 of House Bill No. 1019.

With the exception of section 3, I am approving House Bill No. 1019.

Respectfully submitted,



Gary Locke  
Governor

**SHB 1022**

**FULL VETO**

Prohibiting the department of natural resources from entering into certain agreements with the federal government without prior legislative and gubernatorial approval.

By House Committee on Natural Resources (originally sponsored by Representatives Buck, Johnson, Mitchell, McMorris, Talcott, Hickel, Chandler, Mastin, Lambert,

Sheldon, Schoesler, Hatfield, Kessler, Mulliken, Honeyford, Thompson, Koster, DeBolt, D. Sommers, Carrell, L. Thomas, Dunn, Mielke, Clements, O'Brien and Doumit.)

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background: The Endangered Species Act.** The federal Endangered Species Act (ESA) makes it unlawful for a person subject to the jurisdiction of the United States to "take" any endangered species of fish or wildlife. By federal regulation, the secretary of the Department of the Interior extended this prohibition on "take" to threatened species of fish or wildlife. The ESA defines the term "take" to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." By regulation, the U.S. Fish and Wildlife Service defines the term "harm" to include "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering."

The northern spotted owl was listed as a threatened species under the ESA in 1990. The marbled murrelet was listed as a threatened species in 1992. A number of salmon species are currently under review for possible listing under the act. These listings and the potential for future listings pose difficulties for forest land managers trying to determine what harvesting and other forest management activities are permissible without violating the "take" prohibition of the ESA.

**Habitat Conservation Plans.** The ESA offers land managers a conservation planning option as a way to be in compliance with the act. A provision of the ESA allows the secretary of the Department of the Interior (secretary of the Department of Commerce, for salmon species) to permit a person to violate the "take" prohibition of the act if the taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity. To allow for this taking of a listed species, the secretary must issue an incidental take permit. The secretary may not issue a permit unless the person seeking the permit provides the secretary with a conservation plan that specifies: 1) the impact that will result from the taking of the species; 2) the steps the applicant will take to minimize and mitigate these impacts, and the funding that will be available to implement those steps; 3) the alternatives the applicant considered and the reasons why those alternatives were not selected; and 4) any other measures that the secretary requires. The plan supplied to the secretary by the applicant is called a habitat conservation plan (HCP).

An applicant for an incidental take permit must negotiate an agreement with the U.S. Fish and Wildlife Service and with the National Marine Fisheries Service, if salmon species are involved in the proposed plan. The applicant, rather than one of the federal agencies, initiates the development of an HCP. The applicant chooses the land base

to be included in the plan as well as the species to be included. An HCP may be developed for a single species or a number of species, including unlisted species. Including conservation planning for an as-yet-unlisted species may insulate a land manager from disruptions in operations if the species is listed in the future. A number of private and public forest land managers in the Pacific Northwest have developed or are in the process of developing HCPs.

**Habitat Conservation Plan for State Forest Lands.** On January 30, 1997, the commissioner of public lands and the two federal agencies signed an implementation agreement for a habitat conservation plan for certain state lands. The land base in the plan is approximately 1.6 million acres of state-owned forest lands that fall within the range of the northern spotted owl. The plan addresses conservation measures for nine listed species and a number of other unlisted species, including salmonid species under review for possible listing. The HCP includes special provisions for northern spotted owl and marbled murrelet habitats, for riparian habitat, and for certain special habitats such as cliffs and springs. The plan seeks to provide habitat for the listed and unlisted species through the above habitat conservation efforts and also provides species-specific measures when such measures are deemed necessary. Separate plans are included for the Olympic Experimental State Forest. The Department of Natural Resources received its incidental take permits at the time the agreement was signed. The department must incorporate the commitments of the HCP into timber sales sold on or after January 1, 1999; the agency may choose to incorporate HCP commitments into earlier sales. The implementation agreement for the HCP addresses issues such as termination of the agreement by the department, what happens if the ESA is amended or repealed, land transfers and exchanges, and a process for making major and minor amendments to the permits and the HCP. The term of the agreement is 70 years, with the option to renew up to three times for up to 10 years each time.

**Summary:** The Legislature must review the habitat conservation plan for state forest lands. The Legislature must determine whether the HCP and its accompanying implementation agreement are in compliance with the state's fiduciary responsibilities and are in the best interests of the trust beneficiaries. If the Legislature determines that the HCP and implementation agreement are in the best interests of the trust beneficiaries, the Legislature must so state either through legislation, joint memorial, or resolution. If the Legislature has not made such a statement by March 15, 1998, the Department of Natural Resources must act immediately to terminate the implementation agreement and the HCP. The department must then notify the Legislature that it has taken this required action.

**Votes on Final Passage:**

House	66	30	
Senate	34	14	(Senate amended)
House	60	29	(House concurred)

**VETO MESSAGE ON HB 1022-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1022 entitled:

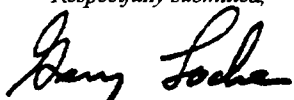
"AN ACT Relating to the department of natural resources;"

Substitute House Bill No. 1022 would require that long-range commitments made by the Department of Natural Resources (DNR) regarding the management of state trust lands, specifically, the habitat conservation plan (HCP), and the implementation agreement made with the federal government pursuant to the federal Endangered Species Act, be subject to legislative review. The legislature would determine "whether the plan and the accompanying implementation agreement are in compliance with the state's fiduciary responsibilities and are, in fact, in the best interests of the trust beneficiaries." The HCP would automatically be terminated unless the legislature took affirmative action to approve it by March 15, 1998.

In 1957, the legislature created the Board of Natural Resources to provide broad direction to DNR over the management of state trust lands. There was solid wisdom in this approach taken by the legislature. The Board of Natural Resources reviewed the benefits and risks to the HCP and concluded, after three years of thorough examination and public review, that the HCP was in the long-term best interest of the trust beneficiaries. As such, the Board has well met its fundamental responsibilities as a trust manager, providing long-term stability and revenue for beneficiaries now and for generations to come. It is not appropriate for the legislature to now usurp DNR's authority.

For these reasons, I have vetoed Substitute House Bill No. 1022 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**HB 1023**

C 95 L 97

Clarifying qualifications for commuter ride sharing.

By Representatives Buck, Cooke, Mielke and Cairnes.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** There are two types of ride sharing: commuter ride sharing and ride sharing for persons with special transportation needs. Vehicles used as ride sharing vehicles are exempt from the retail sales and use tax and the motor vehicle excise tax (MVET). (Nonprofit transportation providers rendering ride sharing services for persons with special transportation needs are also entitled to gas and diesel fuel tax rebates.)

Commuter ride sharing is conducted in a passenger vehicle with (1) a gross weight not to exceed 10,000 pounds, excluding special rider equipment; and (2) a seating capacity not to exceed 15 persons that is used by (a) no fewer than five people, including the driver, or (b) four persons, including the driver, when at least two persons are confined to wheelchairs. The provisions apply to a fixed group of people traveling between their homes or nearby termini and place of employment, or educational or other institution, in a single daily round trip.

Because of the term "single daily round-trip," a commuter ride sharing vehicle used for multiple daily round-trips for different employment shifts, such as a commuter van that makes three round-trips between Port Angeles and Clallam Bay Prison per day for three different shifts of employees, does not qualify for the tax exemptions.

**Summary:** A vehicle that transports more than one group to and from work or an educational or other institution on a daily round trip basis, qualifies as a commuter ride sharing vehicle (and is therefore eligible for the sales tax and MVET exemptions).

**Votes on Final Passage:**

House	96	0
Senate	44	1

Effective: July 27, 1997

**SHB 1024**

C 210 L 97

Shortening the notice time given by nursing homes to the department of health to convert beds back to nursing home beds.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Cody, Skinner, Sherstad, Thompson, Carlson, D. Sommers, Sterk, Huff, L. Thomas, Cooke, Dunn, Mielke, Clements and Backlund).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** The certificate of need program is administered by the Department of Health as a cost containment program designed to ensure the construction, development, or acquisition of only those new health care facilities and services which promote access to high quality and needed care at reasonable costs. Nursing homes are among the facilities covered under the certificate of need law.

A nursing home must obtain a certificate of need to increase the number of nursing home beds in the facility. The law provides, however, that a nursing home may "bank" or hold in reserve any current beds to use the space for other related purposes that enhance the quality of life for residents.

## E2SHB 1032

Generally, a one-year notice is required is required to restore "banked" beds. If construction is required to restore the "banked" beds, notice of intent to reconvert must be given to the department no later than two years prior to the modification.

An exemption from the requirement of a Certificate of Need is provided for Christian Science sanatoriums.

**Summary:** To convert "banked" beds back to nursing home beds, a nursing home must give the Department of Health a notice of intent to restore the beds held in reserve at least 90 days prior to the modification. If construction costing more than \$1.2 million is required for the conversion of the beds back to nursing home beds, the notice of intent must be made at least one year prior to the modification.

The religious exemption from the requirement for a certificate of need is clarified by exempting any health facility or institution that relies exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or that is operated for the care of clergy.

### Votes on Final Passage:

House	96	0
Senate	47	0

**Effective:** July 27, 1997

## E2SHB 1032

### PARTIAL VETO

C 409 L 97

Implementing regulatory reform.

By House Committee on Appropriations (originally sponsored by Representatives Reams, Mulliken, Thompson, McMorris, Koster, DeBolt, D. Sommers, Boldt, Hickel, Sheahan, Buck, Schoesler, Honeyford, Mitchell, D. Schmidt, Sherstad, L. Thomas, Dunn, Dyer, Mielke, Cairnes, Robertson and Backlund).

House Committee on Government Reform & Land Use  
House Committee on Appropriations  
Senate Committee on Government Operations  
Senate Committee on Ways & Means

**Background:** In 1994 and 1995, the Legislature made substantial changes to agency rule-making and the legislative review of rules. Additional changes to rule-making and rules review were considered by 1996 Legislature but did not pass.

**Grants of Rule-Making Authority:** ESHB 1010 as passed by the Legislature during the 1995 session prohibited the departments of Labor and Industries, Revenue, Ecology, Social and Health Services, Health, Licensing, Employment Security, and Agriculture, as well as the Fish and Wildlife Commission, the Forest Practices Board, the Commissioner of Public Lands, and the Insurance Com-

missioner from relying solely on intent statements or the agency's enabling provisions as statutory authority to adopt a rule. The Governor vetoed the sections pertaining to the Forest Practices Board, the Department of Labor and Industries, and the Insurance Commissioner. All agencies were prohibited from adopting rules based solely on intent statutes or enabling provisions when implementing future statutes, except to interpret ambiguities in a statute.

**Rule-Making Requirements:** *General requirements.* The state Administrative Procedure Act (APA) details procedures state agencies are required to follow when adopting rules. Generally, a "rule" is any agency order, directive, or regulation of general applicability which (1) subjects a person to a sanction if violated; or (2) establishes or changes any procedure or qualification relating to: (a) agency hearings; (b) benefits or privileges conferred by law; (c) licenses to pursue any commercial activity, trade, or profession; or (d) standards for the sale or distribution of products or materials.

Before adopting a rule, an agency must follow specified procedures, including publishing notice in the state register and holding a hearing. Rules not adopted in accordance with law are invalid.

*Emergency rules.* An agency may adopt an emergency rule if it finds either (1) that the immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that it would be contrary to the public interest to observe the time requirements of public notice and opportunity to comment; or (2) that state law, or a federal law, rule, or deadline for receipt of funds requires immediate adoption of a rule. The agency must include a statement of the reasons for the emergency in the rule adoption order filed with the Code Reviser. An emergency rule takes effect upon filing. No additional notice or a hearing is required.

*Significant legislative rules.* Before adopting significant legislative rules, the departments of Labor and Industries, Revenue, Ecology, Health, Employment Security, and Natural Resources, as well as the Forest Practices Board and the Insurance Commissioner must make certain determinations. The Department of Fish and Wildlife must also make these determinations when adopting certain hydraulics rules. These determinations include that probable benefits exceed probable costs, that the rule does not require persons to take an action which violates another federal or state law; and other determinations.

The identified agencies must also coordinate implementation and enforcement of the rule with other federal and state entities that are regulating the same activity or subject matter. Within 45 days of the notice of proposed rule-making, the Joint Administrative Rules Review Committee (JARRC) may require that any state agency rule be subject to these requirements.

*Review of rules.* Rules remain in effect until amended or repealed. The APA does not require state agencies to review their rules. In April 1997, the Governor signed an

executive order requiring agencies headed by gubernatorial appointees to review their rules.

*Other rule-making provisions.* Agencies must send notice to interested persons of rule-making activity. No provision is made for agencies to use electronic mail or facsimile mail in lieu of regular mail. In addition, agencies are not able to make filings with the Code Reviser by electronic mail. An expedited repeal process allows agencies to repeal rules through a simplified process if no one objects. Agencies must annually identify rules for repeal by the expedited process.

Other Agency Documents: In addition to rules, agencies also issue other types of documents. These include interpretive and policy statements, consumer-related guides and brochures, and technical assistance documents.

Legislative Review: The JARRC has authority to selectively review rules and interpretive and policy statements. If the JARRC finds that a rule is not within the intent of the Legislature or has not been adopted in accordance with all provisions of law, or that an agency is using an interpretive or policy statement in place of a rule, the JARRC notifies the agency. A process is in place for the agency to respond to the JARRC's findings and for the JARRC to take further action. Ultimately, the JARRC may recommend that the Governor suspend a rule.

The procedures for legislative review of rules do not establish a presumption as to the legality or constitutionality of the rule in subsequent judicial proceedings. In the last two legislative sessions, the Governor has vetoed provisions which would have provided that a JARRC suspension recommendation on the ground that a rule does not conform with the intent of the Legislature establishes a rebuttable presumption that the rule is invalid.

Judicial Review: The burden of proof for demonstrating the invalidity of an agency action, including the invalidity of a rule, is generally on the person asserting the invalidity.

A court is required to award fees and other expenses, including reasonable attorneys' fees, to a qualified party who prevails against a state agency in a challenge of an agency action unless the court finds that the agency action was substantially justified or that circumstances would make an award unjust. Qualified parties are 1) an individual whose net worth does not exceed \$1 million and 2) a sole owner of an unincorporated business, or a partnership or other business organization whose net worth does not exceed \$5 million. The amount awarded may not exceed \$25,000.

Adjudicative Proceedings: With certain exceptions, when a state agency conducts a hearing which is not presided over by officials who are to render the final decision, the hearing must be conducted by an administrative law judge.

Summary: Grants of Rule-Making Authority: The Forest Practices Board, the Department of Labor and Industries, and the Insurance Commissioner are prohibited

from relying solely on intent statements or the agency's enabling provisions as statutory authority to adopt a rule. The Insurance Commissioner may use enabling/intent provisions to adopt procedural or interpretive rules. The prohibition relating to the Department of Labor and Industries does not apply to prevailing wage rules.

The authority for the Insurance Commissioner to define unfair methods of competition and unfair or deceptive acts or practices is modified. The commissioner must review all comments and documents received during rule-making, identify the reasons for defining the unfair methods or unfair or deceptive acts or practices, and include a description of facts upon which the commissioner relied and failed to rely in making the definition.

Upon appeal, the superior court must review the findings of fact upon which the regulation is based de novo on the record.

Rule-Making Requirements: General requirements. The Department of Revenue must index tax determinations which are precedential and publish the determinations and indexes.

*Emergency rules.* The Governor must sign emergency rules if immediate adoption is based on the preservation of the general welfare and must state why the rules are necessary for the preservation of general welfare.

*Significant legislative rules.* The Department of Social and Health Services (DSHS) is added to the list of agencies required to follow the procedures for significant legislative rules. Rules of the DSHS relating only to client medical or financial eligibility and rules concerning liability for care of dependents are exempted from the significant legislative rules requirements. The 45-day period for JARRC to require any agency to follow the significant legislative rules requirements for any rule is extended to 90 days.

*Review of rules.* The Legislature acknowledges the Governor's Executive Order on regulatory reform and encourages all agencies to establish a formal and expeditious process for the review of existing rules.

All agencies must review new rules within seven years of adoption or the rules are ineffective. An agency must review rules to evaluate the achievement of the goals and objectives of the rule, technological changes that impact the rule, actual costs undergone by the regulated community, and other matters. Rules which the Governor certifies have undergone executive rules review by July 31, 2001, are subject to the review process beginning in 2001.

*Other rule-making provisions.* An expedited adoption process is established which is similar to the expedited repeal process. Agencies may use the procedure to adopt rules correcting minor errors or clarifying language, rules which have been the subject of negotiated rule making or pilot rule making, rules that are being amended after a rules review, and other rules. Unless objection is made, the agency may adopt the rule without further notice, a significant legislative rule analysis, or a public hearing.

The expedited adoption provisions expire on December 31, 2000. The expedited repeal procedure is modified to require agencies to identify rules twice a year for expedited repeal.

Each agency must prepare a semiannual agenda for rules under development. The agency must send a copy to interested persons and publish it in the register.

In lieu of regular mail, an agency may send notices relating to rule making by electronic or facsimile mail when requested in writing by the person receiving the notice. If an agency is capable of receiving comments by electronic mail, facsimile transmissions, or recorded telephonic communications, the agency must state in its notice of hearing that persons may comment by these means and how they may do so. Comments must be placed in the rule-making file.

By November 30, 1997, the Governor must submit a plan to the Legislature for a pilot project consolidating all rules adopted by any agency that regulate the same activity or subject matter.

The Code Reviser must report to the Legislature and the Governor by July 1, 1998, on the feasibility of accepting agency rule filings in an electronic format.

Other Agency Documents: New definitions are created under the APA. An "issuance" is a document of general applicability issued by an agency. The term includes rules, policy and interpretive statements, and other documents, but does not include adjudicative orders, tax determinations of precedential value, medical coverage decisions, technical assistance documents, tariffs, or permits. "Rules" are redefined as issuances which have been adopted under the APA rule-making process. Issuances which have not been adopted as rules are advisory only. A "de facto" rule is an issuance not adopted under the APA rule-making process but which an agency uses as a rule.

A person may petition an agency to adopt an issuance as a rule and to repeal or withdraw an interpretive or policy statement.

Legislative Review of Rules: The JARRC may review an agency issuance to determine if it constitutes a de facto rule and may recommend suspension of an issuance it finds is a de facto rule. A person may petition the JARRC to review any issuance, in addition to rules and policy and interpretive statements.

A JARRC suspension recommendation to the Governor that a rule be suspended because it does not conform with legislative intent or was not adopted in accordance with law establishes a rebuttable presumption in any proceeding challenging the rule that the rule is invalid. In these cases, the agency has the burden of demonstrating the validity of the rule.

Judicial Review: In a declaratory judgment action challenging the validity of a rule, after the petitioner has identified the defects in the rule, the burden of going forward with the evidence is on the agency. A person does not need to first petition the JARRC before seeking judicial review of a rule.

The provisions for payment of attorneys' fees in agency actions are modified. The net worth limits to be a qualified party are raised. An individual whose net worth does not exceed \$2 million and who is the sole owner of an unincorporated business, or a partnership or other business organization whose net worth does not exceed \$7 million are eligible for awards. The standard for awards is changed so that an award must be made unless the court finds that circumstances make an award grossly unjust. The limits on awards are raised. A qualified party is entitled to \$50,000 for fees and other expenses incurred in superior court, and \$50,000 for fees and other expenses incurred in each court of appeal to a maximum of \$75,000. The agency must pay any fees awarded within 30 days, from moneys appropriated for administration and support services if these moneys are separately designated in the budget.

Adjudicative Proceedings: A hearing held by the Insurance Commissioner must be conducted by an administrative law judge unless the person demanding the hearing agrees in writing to have an employee of the commissioner conduct the hearing.

Other Provisions: An exception is created to the general requirement that a governmental agency seeking access to confidential information of the Department of Employment Security serve a copy of the request on the individual or employing unit whose records are sought. The requirement does not apply to the release of specified data for the purpose of preparing a small business economic impact statement or a cost-benefit analysis in connection with rule-making.

Prior to releasing a final report or study regarding management by a unit of local government, an agency must give a draft copy to the local legislative body and meet with the legislative body if so requested.

When issuing a citation or other written finding that a person has violated a statute, rule, or order, the agency must include the text of the statute granting the agency the authority to regulate the subject matter.

**Votes on Final Passage:**

House	65	33	
Senate	30	19	(Senate amended)
House	68	29	(House concurred)

**Effective:** May 19, 1997 (Section 605)  
July 27, 1997

**Partial Veto Summary:** The Governor vetoed some of the limits on rule-making, the signature requirement on emergency rules, the mandate to review new rules, the new definitions of issuance and de facto rule, the modifications to attorneys' fees, the establishment of a rebuttable presumption by a Joint Administrative Rules Review Committee suspension recommendation, and several other provisions.

## VETO MESSAGE ON HB 1032-S2

May 19, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 101, 102, 104, 105, 106, 201, 202(9) and (10), 203, 204, 205, 207, 210, 301, 303, 304, 401, 402, 403, 404, 501, 502, 503, 602, and 604, Engrossed Second Substitute House Bill No. 1032 entitled:

"AN ACT Relating to regulatory reform;"

On March 25, 1997, I issued Executive Order 97-02, which set the stage for a thorough review of agency regulations based on need, effectiveness, clarity, statutory intent, coordination and consistency, cost, and fairness. The order also directs agencies to review their reporting requirements for businesses and their policy and interpretive statements and other similar documents. It was not by accident that I chose regulatory reform as the subject of the first executive order of my administration. It is a top priority of my office and all state agencies, and I am firmly committed to ensuring that it results in effective and meaningful regulatory improvements throughout state government.

Despite this demonstrated commitment, the legislature chose to proceed with legislation that in many cases does not measure up to what I consider effective and meaningful regulatory reform. Regulatory reform should reduce inefficiencies, conflicts, and delays in the regulatory process. It should not increase costs, cause inefficiencies, or sacrifice continued protection of our environment and the health and safety of our citizens. While some of the proposals in Engrossed Second Substitute House Bill 1032 meet these goals, many do not.

I have approved a number of provisions in the bill that I hope will improve the regulatory process. Those sections will clarify rule making authority for the Department of Labor and Industries, improve the Insurance Commissioner's procedures for adopting rules governing unfair practices, and initiate an expedited rule adoption process. Other sections that I have approved will provide better advance notice of rule making, improve opportunities for expedited repeal of rules, encourage all state agencies to engage in a formal rule review process, and provide greater public access to Department of Revenue tax determinations. I have also signed sections that set the stage for possible consolidation of agency rules on the same subject matter, remove legal ambiguities regarding judicial review of rules, provide more local government input on state agency reports, and facilitate the preparation of small business economic impact statements. I applaud the legislature for initiating these improvements to the regulatory process.

However, other sections of the bill are not consistent with meaningful and effective regulatory reform. Sections 101 and 102 would limit the authority of the Forest Practices Board to adopt rules regarding scenic beauty. Proponents argue that these sections merely clarify the current rule making authority of the Board and ensure that its authority is consistent with standards applied to other agencies. In fact, these sections could well be interpreted as a substantive reduction of Board authority and possibly jeopardize ongoing negotiated rule making over sensitive visual impacts in the Columbia River Gorge Scenic Area. For these reasons, I have vetoed sections 101 and 102.

Sections 104 through 106 pose similar risks to the rule making authority of the Office of the Insurance Commissioner, by limiting the general rule making authority of that office. In the insurance code, effective regulatory action and consumer protection depend on a combination of specific statutory directives and general rule making authority. To eliminate general authority, as is proposed in sections 104, 105, and 106, could compromise the capacity of that agency to effectively regulate insurance companies, health care service contractors, and health maintenance organizations. In addition, sections 303 and 304 require the use of administrative law judges for adjudicative proceed-

ings within the Office of the Insurance Commissioner. I have not been presented with sufficient evidence that the current system has created results that were unfair to aggrieved parties. It appears that existing procedures are both cost-effective and efficient. For these reasons, sections 104, 105, 106, 303, and 304 are vetoed.

Section 201 and other related sections in the bill are designed to clarify the difference between rules and other documents that agencies issue. These sections restructure the definition of "rule" within the Administrative Procedure Act (APA). Proponents believe that this language would resolve problems that businesses have when agencies issue policy statements or other documents that should be adopted as rules. I am sympathetic with these concerns and recognize that problems do exist in this area. For that reason, in Executive Order 97-02, I directed agencies to review these kinds of documents with the Attorney General's office and affected members of the regulated community, and take appropriate corrective action. I will be monitoring that effort and will determine if legislation is necessary in 1998.

I believe this problem can be more effectively addressed on an issue-by-issue basis, not by a restructuring of the definition of "rule," as is proposed in this bill. Section 201 could substantially increase rule making in areas where rules may not be the best answer for reasons of cost, timeliness and urgency of the decision, and the sheer number of decisions that must be made in many state programs. Also, sections 202(9) and (10), 301, 401, 402, 403, and 602 contain changes that cross-reference the terms "issuance" or "de facto rule" that are defined only in section 201. Since section 201 is vetoed, these changes would be confusing and obsolete. For these reasons, I have vetoed sections 201, 202(9) and (10), 301, 401, 402, 403, and 602.

Section 203 would authorize agencies to send out the contents of regulatory notices by electronic mail or fax. This was authorized in Substitute House Bill 1323, which I have already signed.

Section 204 mandates that agencies receive and accept comments on proposed rules via voice mail if they have the equipment to receive comments by this method. Current law authorizes agencies to receive comments by voice mail. This is preferable to the mandate contained in section 204.

Section 205 requires the Department of Social and Health Services to adopt a large portion of its rules using significant legislative rule making requirements. This provision is identical to one contained in Substitute House Bill 1076, which I will sign. Section 205 also provides the Joint Administrative Rules Review Committee (JARRC) with 90 days to direct an agency to adopt rules using significant legislative rule making requirements. If an agency completes rule making before the 90 days have elapsed, it is uncertain what the legal effect of the rule would be if JARRC subsequently mandates that the rule should have been adopted under these more stringent requirements. For these reasons, I have vetoed section 205.

Section 207 requires the governor's signature on every emergency rule adopted by all agencies under the general welfare criterion. This section introduces excessive bureaucratic process and paperwork into crucial agency operations. It is also impractical to require the governor to review and approve hundreds of emergency rules, many of which require a same day turn around time. For these reasons, I have vetoed section 207.

Section 210 requires a review of all newly adopted rules within seven years, and a review of existing rules after the governor's rule review is completed. Without this review, the rules would no longer be effective. This section creates a major workload that, in most cases, will duplicate rule review efforts of agencies under Executive Order 97-02. And because the requirement would be part of statutory rule adoption provisions of the APA, it could add substantial legal uncertainty and risk regarding the validity of many rules that may be subject to court challenge. For these reasons, I have vetoed section 210.

Section 301 shifts to agencies the burden of going forward with evidence in rule validity challenges. The purpose of this change is to make it easier for people with limited resources to

**SHB 1033**

challenge rules. While I am sympathetic to this concern, there is already provision in the APA to address the problem.

Section 404 gives five members of JARRC the power to establish a rebuttable presumption in judicial proceedings that a rule does not comply with legislative intent or was not adopted in accordance with all applicable provisions of law. The burden of proof to establish the validity of the rule would then fall to the agency, rather than to the person challenging the rule. I have vetoed this section because it violates the state Constitution, which requires that legislative acts be performed by the entire legislature with presentment to the governor for approval. It also raises constitutional separation of powers questions.

Sections 501 through 503 make major changes in the Equal Access to Justice Act, which was recently enacted in 1995 under ESHB 1010. The proposed changes expand the program to judicial review of all agency actions, not just APA issues; modify the standard for allowing attorney's fees; substantially increase awards and the net worth of persons who can qualify for awards; and make other changes regarding the payment of fees. I am not convinced that such changes are justified in a program that is less than two years old and has been applied to only a handful of cases. The current law, with its existing limits and standards, was intended to cure the evils the legislature sought to eliminate. For these reasons, I have vetoed sections 501, 502, and 503.

Finally, section 604 requires that agencies print on their citations the entire text of laws authorizing those citations. This may turn the "ticket books" used by some agencies into rather lengthy treatises.

For these reasons, I have vetoed sections 101, 102, 104, 105, 106, 201, 202(9) and (10), 203, 204, 205, 207, 210, 301, 303, 304, 401, 402, 403, 404, 501, 502, 503, 602, and 604 of Engrossed Second Substitute House Bill 1032.

With the exceptions of sections 101, 102, 104, 105, 106, 201, 202(9) and (10), 203, 204, 205, 207, 210, 301, 303, 304, 401, 402, 403, 404, 501, 502, 503, 602, and 604, Engrossed Second Substitute House Bill 1032 is approved.

Respectfully submitted,

Gary Locke  
Governor

**SHB 1033**

C 410 L 97

Revising requirements for grain facilities under the Washington clean air act.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Schoesler, Honeyford, Sheahan, Grant and Chandler).

House Committee on Agriculture & Ecology  
House Committee on Appropriations  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** The state's Clean Air Act requires the Department of Ecology (DOE) or the board of an activated local air pollution control authority to require renewable permits for the operation of air contaminant sources. The operating permits apply to all sources where required by the federal Clean Air Act and, with certain limitations, to

any source that may cause or contribute to air pollution in such a quantity as to create a threat to the public health or welfare. In addition, the DOE or such a board may classify air contaminant sources that may cause or contribute to air pollution and require registration and reporting for these classes of sources. The DOE or such a board may also require registrations to be accompanied by a registration fee and may determine the amount of the fee. The fees may be set only to compensate for certain specified costs of administering the registration program.

**Summary:** Once a registration or report has been filed under the air pollution source registration program for a grain warehouse or grain elevator, a registration, report, or fee may not be again required for the warehouse or elevator after January 1, 1997. This prohibition does not apply if the capacity of the warehouse or elevator listed as part of its grain warehouse or elevator license is increased. If the licensed capacity is increased, any registration or reporting required under the program for the warehouse or elevator must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase.

This exemption from re-registration, fees, and reporting does not apply to a facility that handles more than 10 million bushels of grain annually.

**Votes on Final Passage:**

House	98	0	
Senate	46	0	(Senate amended)
House	89	0	(House concurred)

Effective: July 27, 1997

**HB 1037**

**FULL VETO**

Making the 4.7187% state property tax reduction permanent.

By Representatives B. Thomas, Mulliken, Honeyford, Johnson, Mastin, Thompson, McMorris, Koster, DeBolt, Carlson, Boldt, Hickel, Alexander, Lambert, Buck, Schoesler, Sterk, Mitchell, D. Schmidt, Wensman, Sherstad, Carrell, Sheldon, Linville, Huff, Cooke, Bush, Smith, Dunn, Dyer, Van Luven, Mielke, Chandler, Cairnes, Talcott, Robertson and Backlund.

House Committee on Finance

**Background:** The state annually levies a statewide property tax. The state property tax is limited to a rate no greater than \$3.60 per \$1,000 of market value. The state property tax is also limited by the 106 percent levy limit. The 106 percent levy limit requires reduction of property tax rates as necessary to limit the total amount of property taxes received by a taxing district. The limit for each year is the sum of (a) 106 percent of the highest amount of property taxes levied in the three most recent years, plus



(b) an amount equal to last year's levy rate multiplied by the value of new construction.

The state property tax for collection in 1996 was reduced 4.7187 percent by legislation enacted during the 1995 session. This reduction affected only the 1996 levy. Therefore, for purposes of the 106 percent limit, state levies after 1996 will be set at the amount that would otherwise be allowed as if the reduction in 1996 had never occurred.

**Summary:** The state property tax for collection in 1997 is reduced by 4.7187 percent. The reduced 1997 levy will be used for future state levy calculations under the 106 percent levy limit.

**Votes on Final Passage:**

House	62	34
Senate	27	18

**VETO MESSAGE ON HB 1037**

January 22, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 1037 entitled:

"AN ACT Relating to making the 4.7187% state property tax levy reduction permanent;"

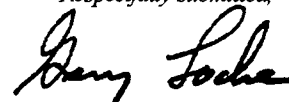
House Bill No. 1037 converts the temporary 4.7 percent reduction in the state property levy which expired on December 31, 1996 to a permanent tax reduction. As I have explained in my conversations with legislative leadership and the news media, I am vetoing the bill because making the 4.7 percent property tax reduction permanent would preclude more substantial relief for homeowners. Of the \$159 million in tax reduction provided by this measure through June 1999, only 58 percent benefits single family homeowners.

Moreover, in the last two years, the state has granted approximately one billion dollars of tax relief—virtually none of it to the hard-working families of Washington State. While I support additional tax relief for businesses by rolling back the remainder of the 1993 Business and Occupation Tax increase, I believe we should adjust the balance between tax relief for businesses and families.

Our state's ability to provide tax relief is not unlimited; we must set priorities. My priority for property tax relief is an approach that maximizes the benefits for middle-class homeowners and those of moderate means. Extending the 4.7 percent property tax indefinitely for both businesses and homeowners takes away dollars for more substantial tax relief for homeowners.

I remain committed to signing a one-year extension of the temporary reduction, and will send executive request legislation on that matter to you today under separate cover. While we continue to work on the form and scope of meaningful long-term tax relief for homeowners, I urge you to pass the one-year extension of the property tax relief measure quickly and without complicating provisions. County officials have informed my office that they still have time to revise 1997 tax statements. I hope that we can work together to ensure that the property tax relief secured through the hard work of both parties over the past two years is not lost.

Respectfully submitted,



Gary Locke  
Governor

**SHB 1047**

C 211 L 97

Changing tuition waivers for employees of institutions of higher education.

By House Committee on Higher Education (originally sponsored by Representatives Carlson, Radcliff, Dunn and O'Brien).

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** The governing boards of the public baccalaureate institutions and the community colleges may waive all or a portion of tuition and services and activities fees for some people who enroll in classes on a space-available basis. Until 1996, these space-available waivers were limited to permanent full-time institutional employees, senior citizens, and certain permanent full-time classified state employees. In addition, community colleges could waive tuition for eligible unemployed and underemployed persons. Students receiving these waivers do not count in official enrollment reports, and the institutions do not receive any state funding for them. Institutions were required to charge a fee of \$5 or more to cover the costs associated with enrolling these students.

In the 1996 legislative session, the Legislature enacted two bills that expanded the types of persons eligible to receive space-available waivers.

The first bill from 1996 revised the law that permits institutions to waive tuition and fees for permanent full-time classified state employees to include a number of additional state employees. These additional employees include permanent employees who are employed half-time or more: (1) in classified service under state civil service law; (2) through the Public Employees' Collective Bargaining Act; or (3) in technical colleges as classified employees and exempt paraprofessionals. Nonacademic employees and members of the faculties or instructional staffs employed half-time or more at public colleges and universities were also included. People enrolled under this law must pay a registration fee of \$5 or more.

The second bill amended a different statute. The law that permits baccalaureate institutions and community colleges to waive tuition and fees for the institutions' own permanent full-time employees was amended to include members of the Washington National Guard. People enrolled under this law are required to pay a registration fee that fully covers the costs of enrollment.

## HB 1054

During the summer of 1996, the Office of the Attorney General advised the institutions that these two statutes conflict. The office advised the colleges that if they wished to grant space-available waivers to their own employees, the waivers must be limited to permanent full-time employees. If the colleges choose to grant waivers to other eligible state employees, the waivers could be granted to people employed half-time or more.

**Summary:** Provisions on tuition waivers are consolidated and clarified. Public baccalaureate institutions and community colleges may continue to waive all or a portion of tuition and fees for members of the Washington National Guard and eligible state employees who are enrolled on a space-available basis. Eligible state employees are those employed half-time or more in the employee classifications described in the legislation. Eligible state employees include faculty, counselors, librarians, and exempt professional and administrative employees at public colleges and universities. References to instructional staff are removed.

If an institution of higher education grants any waivers under this program, it must include all eligible state employees and members of the Washington National Guard in the pool of persons eligible to receive waivers. In granting waivers, an institution may not discriminate between full-time and part-time employees, but it may award waivers to eligible institutional employees before considering waivers for other eligible persons.

The separate statute is repealed that permits public baccalaureate institutions and community colleges to waive all or a portion of tuition for the institutions' own employees and members of the Washington National Guard who are enrolled on a space-available basis.

### Votes on Final Passage:

House	95	0
Senate	47	0

**Effective:** July 27, 1997

## HB 1054

C 269 L 97

Referencing the prior fiscal period rather than biennia for refunds and recoveries to the state educational trust fund.

By Representatives Dunn, Carlson, Mason and Mielke; by request of Higher Education Coordinating Board.

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** The state educational trust fund is a non-appropriated fund from which the Higher Education Coordinating Board may make expenditures for the primary purpose of providing college financial assistance to needy or disadvantaged students.

Under some circumstances, students must repay grants or loans received as student financial aid. When the Higher Education Coordinating Board receives repay-

ments of grant and loan money expended in prior fiscal biennia, it must deposit the money into the educational trust fund.

A "fiscal period" is the period for which an appropriation is made. Amounts appropriated by the Legislature for student financial aid are typically appropriated by fiscal year rather than by fiscal biennium.

**Summary:** The Higher Education Coordinating Board must deposit in the educational trust fund amounts received as repayments of student financial aid expended in prior fiscal periods, rather than prior fiscal biennia.

### Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)

### Conference Committee

Senate	41	0
House	97	0

**Effective:** July 27, 1997

## ESHB 1056

C 371 L 97

Requiring that natural area preserves be accessible for public hunting, fishing, and trapping.

By House Committee on Natural Resources (originally sponsored by Representatives Hatfield, Pennington, Doumit, Mielke, Johnson, Buck, Kessler, Sheldon, Mastin, Grant, Thompson, DeBolt, Quall, Boldt and Linville).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** A natural area preserve (NAP) is an area that retains its natural character, although not necessarily completely natural and undisturbed, or an area that is important in preserving rare or vanishing flora, fauna, geological, natural historical, or other similar features of scientific or educational value. The state owns 46 NAPs, totaling 26,000 acres. Public use of natural area preserves generally has been limited to educational and scientific research activities. The Elk River natural area preserve is a 3,400-acre preserve in Grays Harbor County.

A natural resources conservation areas (NRCA) is an area deemed worthy of conservation for its outstanding scenic and ecological value. The state owns 23 NRCAs, totaling 47,000 acres. NRCAs are open for low-impact public use.

**Summary:** The Elk River natural area preserve is transferred from management as a natural area preserve to management as a natural resources conservation area. The Legislature finds that hunting is a suitable low-impact use within the Elk River conservation area. The Department of Natural Resources (DNR) must incorporate this

legislative direction into the management plan developed for the area. The DNR must work with the Department of Fish and Wildlife to identify hunting opportunities compatible with the area's conservation purposes.

**Votes on Final Passage:**

House	67	27	
Senate	43	5	(Senate amended)
House	88	10	(House concurred)

**Effective:** July 27, 1997

**ESHB 1057**

C 270 L 97

Limiting public disclosure of complaints filed under the uniform disciplinary act.

By House Committee on Health Care (originally sponsored by Representatives Backlund and Cody; by request of Department of Health).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** The Uniform Disciplinary Act provides procedures and sanctions for unprofessional conduct committed by professionals who are licensed, certified, or registered by the Department of Health. The Secretary of Health and fourteen boards and commissions serve as the disciplining authorities for these regulated professions and share responsibility for responding to complaints, conducting investigations, and taking appropriate disciplinary action where warranted.

Under the Public Disclosure Act, the existence of a complaint against a health professional licensee is a public record subject to disclosure by the Department of Health over the telephone upon request, even though the complaint may not be substantiated. Complaints being investigated or that warrant no cause for action must also be disclosed, as well as those that lead to a formal charge against a health professional licensee. The record of these complaints is also subject to disclosure.

The health professional licensee is notified of a complaint except when notification may compromise the investigation. The law does not provide the health professional licensee an opportunity to file a written statement regarding the complaint.

**Summary:** Health professional licensees must be notified upon the receipt of a complaint against them, and allowed to submit a written statement about the complaint for the file. A complaint is exempt from public disclosure until initially assessed and determined to warrant an investigation by the disciplining authority. A complaint determined not to warrant an investigation is no longer considered a complaint, but must remain in the record and tracking system, and may be released only upon written request. Information about a complaint that did not warrant an in-

vestigation may be released only pursuant to a written public disclosure request or interagency agreement.

The secretary of the Department of Health, on behalf of the disciplining authorities, must enter into interagency agreements for the exchange of records if access to records will assist those agencies in meeting their federal or state statutory responsibilities. However, state agencies are subject to the same limitations on disclosure as the disciplining authorities.

The provisions do not affect the use of records in any existing investigation by a state agency, nor do they limit the existing exchange of information between the disciplining authorities and state agencies.

**Votes on Final Passage:**

House	95	0	
Senate	46	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1060**

C 46 L 97

Authorizing Washington wildlife and recreation program projects for fiscal year 1997.

By House Committee on Capital Budget (originally sponsored by Representatives Sehlin, Ogden, Hankins, Grant, Keiser, Scott, Dickerson, Cole, Conway, Quall, Lantz, Cody, Murray, Costa, Morris, Linville, Anderson and Chopp; by request of Interagency Committee for Outdoor Recreation).

House Committee on Capital Budget  
Senate Committee on Ways & Means

**Background:** The Washington Wildlife and Recreation Program (WWRP), administered by the Interagency Committee for Outdoor Recreation (IAC), provides capital grants to state and local governments for acquisition and development of recreation and habitat conservation lands. WWRP funding, appropriated in the state capital budget, is directed by statute into seven project categories: local parks, state parks, trails, water access, urban wildlife habitat, critical habitat, and natural areas.

A local government may apply for WWRP grants annually. A state agency may only apply for WWRP funding biennially. However, a state agency may reapply for funding during the second year of the biennium for projects that were approved but were not funded the first year. Projects are competitively scored and ranked by the IAC within each category using uniform criteria.

Each year, the IAC recommends a ranked list of projects to the Governor and Legislature for possible funding. Alternate projects are included on the list in the event that higher-ranked projects are not able to proceed. The Governor and Legislature may delete projects from, but not add projects to, the recommended list. The state capital

## SHB 1061

budget, through a proviso attached to the WWRP appropriation, has traditionally been used as the vehicle to express legislative approval of the proposed WWRP project list.

The capital budget appropriated \$45 million for the WWRP during the 1995-97 biennium. During the 1995 Session, the Legislature approved a list of 45 projects totaling \$36.8 million and 48 alternate projects for fiscal year 1996. The fiscal year 1997 list of WWRP projects, proposed during the 1996 Session, included 26 projects totaling \$8.2 million and 31 alternate projects. The fiscal year 1997 list received approval in both the House and Senate versions of the 1996 supplemental capital budget. It did not receive final approval, however, because the supplemental capital budget did not pass the Legislature.

Of the 26 projects included on the proposed fiscal year 1997 list, 10 projects totaling \$3.9 million were previously approved as alternates on the fiscal year 1996 list and were therefore eligible to receive WWRP funding in the absence of the supplemental capital budget. The IAC provided grants to these projects in 1996. The remaining 16 projects totaling \$4.2 million have not received funding.

**Summary:** The fiscal year 1997 list of WWRP projects is approved. The list includes 16 projects totaling \$4.2 million, and nine alternate projects.

### Votes on Final Passage:

House	97	0
Senate	44	0

**Effective:** April 16, 1997

## SHB 1061

C 150 L 97

Restricting the state parks and recreation commission authority to regulate metal detectors.

By House Committee on Natural Resources (originally sponsored by Representatives Sheldon, Mielke and Grant).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The State Parks and Recreation Commission allows the use of metal detectors in specified state parks with certain restrictions. These restrictions are outlined in rules adopted by the commission. In general, these rules describe where, how, and when metal detectors can be used. Park areas that allow the use of metal detectors must be posted as being open to the use of metal detectors. Portions of 66 state parks allow recreational metal detecting.

The State Parks and Recreation Commission employs two full-time archaeologists to identify historic archaeological resources. The commission estimates that approximately 20 percent of the total acreage in the state parks' system has been surveyed for these resources.

**Summary:** By September 1, 1997, the Parks and Recreation Commission must open 200 new acres of state park land for use by recreational metal detectors. For the following five years, the commission must open an additional 50 acres per year to recreational metal detectors. The commission must also develop a cost-effective plan to identify historic resources in at least one state park that has a military fort on Puget Sound. By December 1, 1997, the commission must submit a report to the Legislature identifying the cost of the plan and how it will be implemented.

### Votes on Final Passage:

House	95	0
Senate	48	0

**Effective:** July 27, 1997

## ESHB 1064

C 212 L 97

Changing the financial and reporting requirements of health care service contractors and health maintenance organizations.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Wolfe, Dyer and Mason; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** There are three types of health carriers in Washington State: (1) disability insurers, which are traditional insurance companies that reimburse policyholders for covered health care expenses; (2) health care service contractors (HCSCs), which are organizations that provide health care services through a provider network to enrollees who have contracted with the HCSCs; and (3) health maintenance organizations, which are organizations that provide health care services to enrollees on a prepaid basis (generally monthly).

Health care service contractors and health maintenance organizations are required to maintain a certain level of net worth. Those amounts generally are \$1.5 million for health care service contractors and the greater of \$1 million or three months of uncovered expenses for health maintenance organizations.

Limited health care service contractors are providers that offer one health care service such as vision care, dental care, mental health services, or pharmaceutical services. Limited health care service contractors do not have specific net worth requirements.

**Summary:** Health care service contractors (HCSCs) and health maintenance organizations (HMOs) must maintain a net worth equal to the greater of \$3 million or 2 percent of annual premiums on the first \$150 million of annual

premiums and 1 percent on annual premiums in excess of that amount. The current requirement that HMOs' net worth also equal at least three months of uncovered expenses is maintained. Existing health care service contractors and health maintenance organizations that currently do not meet the new requirements may meet these requirements in specified increments by December 31, 1999.

Limited health care service contractors must maintain a minimum net worth of \$300,000. Existing limited health care service contractors that have a net worth less than \$300,000 are allowed to continue operating and meet this requirement in specified increments by December 31, 1999.

Any HMO or HCSC that falls below the net worth requirements is required to cure the deficiency within 90 days after a deficiency notice from the insurance commissioner. If the deficiency is not corrected, the contractor or HMO is declared insolvent and may not issue any further individual or group contracts or agreements. HMOs and HCSCs must file their annual statements and other schedules with the National Association of Insurance Commissioners.

**Votes on Final Passage:**

House	95	0
Senate	48	0

**Effective:** July 27, 1997

**HB 1066**

C 96 L 97

Providing for the maintenance of state facilities.

By Representatives Pennington, Chopp, Mason, Costa, Skinner, Hankins, Ogden and L. Thomas.

House Committee on Capital Budget  
Senate Committee on Government Operations

**Background:** The Office of Financial Management (OFM) provides central budget and accounting services for state agencies. Each biennium, state agencies are required to prepare long-range capital plans displaying the estimated capital budget funding necessary to support their facilities program over a 10-year period. The OFM is responsible for adopting instructions for the preparation of these plans.

In 1993, the OFM was directed to maintain an inventory system to account for the location, type, and size of each owned or leased facility utilized by state government. Preliminary information from the Facility Inventory System (FIS) indicates that state agencies currently own approximately 71.5 million square feet of facilities.

The costs associated with state-owned facilities are funded in both the capital and operating budgets. Initial acquisition, construction, and major repair costs are funded in the capital budget. Small repairs, ongoing pre-

ventive maintenance tasks, utility payments, and janitorial expenses are funded in the operating budget.

In 1995, the House Capital Budget Maintenance Subcommittee and the OFM's Capital Policy and Communications Committee jointly conducted a survey to collect information about state agency maintenance practices. The survey revealed that maintenance definitions, practices, and budget and accounting systems varied widely among agencies. The survey also revealed that, on average, agencies were able to complete about 40 percent of scheduled maintenance tasks. Fourteen agencies reported a total deferred maintenance backlog of approximately \$334 million. Given the large variation in the definitions and accounting methodologies used by agencies, the committees recommended that the survey results be viewed as indicators rather than accurate measures.

In 1996, the OFM's Capital Policy and Communications Committee initiated several reforms to state agency maintenance planning, budgeting, and reporting practices to begin to address the issues identified in the maintenance survey. These reforms include:

1. publication of standard definitions for preventive, predictive, and deferred maintenance in the 1997-99 capital budget instructions;
2. expansion of the statewide facility inventory system to include information about the condition of facilities;
3. development of a prototype report for central reporting of facility and maintenance information on an annual basis; and
4. preparation of multi-year "backlog reduction" plans within agency capital budget requests to address deferred preservation projects and other work needed to repair and extend the useful life of facilities.

The Department of General Administration (GA) provides central construction management services to other agencies, and manages and operates facilities on the capitol campus and at other locations. In 1996, the GA established a voluntary program, known as the Plant Operations Support Program (POSP), to provide technical assistance, consultation, and clearing house support to state and local governments on plant operations and facility maintenance issues. The POSP is funded by voluntary subscription fees, grants, and service fees.

**Summary:** The recent reforms to state agency maintenance planning, budgeting, and reporting practices are codified to ensure that they are sustained into the future.

Information about the condition of facilities must be included in the statewide Facility Inventory System (FIS). The Office of Financial Management (OFM) must publish a report summarizing information in the FIS by October 1 each year, beginning in 1997.

The Department of General Administration (GA) must operate a plant operation and support program to provide information, technical assistance, and consultation on physical plant operation and maintenance issues to state

## HB 1067

and local governments. The program must be funded by voluntary subscription charges and service fees.

Capital budget plans must include a strategic plan for reducing backlogs of maintenance and repair projects. The plans must include a prioritized list of specific projects, project cost estimates and implementation schedules, and identification of normal maintenance activities to reduce future backlogs.

Maintenance terms and definitions are standardized within the budget and accounting act.

The OFM must publish annual maintenance summary reports beginning in October, 1997. State agencies must prepare separate reports for each major campus or site. The reports must include information about: the number, size, and condition of state-owned facilities; facility maintenance, repair, and operating expenses paid from state operating and capital budgets; maintenance staffing levels; the condition of major infrastructure systems; and maintenance management initiatives undertaken by the agencies. Agencies must submit their reports to the OFM by September 1 each year.

### Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 27, 1997

## HB 1067

C 97 L 97

Extending the time limits for commencing a prosecution for certain traffic crimes where a death results.

By Representatives Sterk, Thompson, Costa, Sheahan, Sherstad, Smith, Mielke and O'Brien.

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** The state must prosecute a person for committing a felony crime within three years after the commission of the crime, unless the Legislature specifically enacts a different statute of limitations. The crimes of vehicular homicide, vehicular assault, and hit-and-run injury accident are all subject to the three-year statute of limitations period. In contrast, the crimes of murder, homicide by abuse, and arson if a death results may be prosecuted at any time after the commission of the crime.

A person commits the crime of vehicular homicide if that person's driving of a vehicle causes the death, within three years, of another person, and if the person was driving the vehicle (1) while under the influence of alcohol or drugs; (2) in a reckless manner; or (3) with disregard for the safety of others. Vehicular homicide is a class A felony.

A person commits the crime of vehicular assault if the person operates a motor vehicle in a reckless manner or while under the influence of drugs or alcohol, and this

conduct causes serious bodily injury to another person. Vehicular assault is a class B felony.

A driver commits the crime of hit-and-run injury accident if the driver is involved in an accident that results in the injury to, or death of, another, and if the driver fails to immediately stop at the scene of the accident and provide assistance and information. Hit-and-run injury accident is a class C felony.

**Summary:** The state may prosecute a defendant for committing the crimes of vehicular homicide, vehicular assault if a death occurs, or hit-and-run injury accident if a death occurs, at any time after the commission of the crime.

### Votes on Final Passage:

House	97	0
Senate	41	1

Effective: July 27, 1997

## SHB 1069

C 120 L 97

Prohibiting the malicious use of explosives.

By House Committee on Law & Justice (originally sponsored by Representatives Sterk and Honeyford).

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** Recent bombing incidents have raised concerns about the coverage of some of the state's criminal laws relating to explosives. Some of these bombings may have had an element of terrorist intent.

Under the explosives law, there are two bombing related offenses with what amount to two degrees for each offense. These four crimes and their ranking levels under the Sentencing Reform Act (SRA) are:

- Exploding a bomb with malice and endangering life or safety (level X);
- Exploding a bomb with malice and damaging property (level IX);
- Placing a bomb with malice where it would endanger life or safety (level VI); and
- Placing a bomb with malice where it would damage property (level VI).

These crimes are not classified as "A," "B," or "C" felonies, but carry specified maximum prison sentences of 25, 5, 20 and 5 years, respectively. No fines are specified. Under the SRA, class A felonies carry a maximum penalty of life in prison and a \$50,000 fine, class B felonies carry a maximum of 10 years and \$20,000, and class C felonies carry a maximum penalty of 5 years and \$10,000. The actual sentence given under the SRA depends on the ranking of the crime and the offender's criminal history.

**Summary:** The crimes of placing or exploding a bomb are altered in four ways. First, the crimes are classified as

“A,” “B,” or “C” felonies. Second, new degrees of these crimes are created by adding an element of “terrorism.” Third, a new crime in two degrees is created for the placement of fake bombs. Fourth, these crimes are ranked under the SRA, with increased rankings for the existing crimes, and higher rankings yet for bombings done with terrorist intent.

Terrorist intent is defined as an intent to intimidate or coerce a civilian population or to influence or retaliate against government.

Bombing related crimes are ranked under the SRA and are classified as follows:

- Level XIV - Exploding a bomb with terrorist intent (class A);
- Level XIII - Exploding a bomb and endangering life or safety (class A);
- Level XIII - Placing a bomb with terrorist intent (class A);
- Level XII - Placing a fake bomb with terrorist intent (class B);
- Level X - Exploding a bomb and damaging property (class B);
- Level IX - Placing a bomb to endanger life or safety (class B);
- Level VII - Placing a bomb to damage property (class B); and
- Level VI - Placing a fake bomb without terrorist intent (class C).

**Votes on Final Passage:**

House	95	0
Senate	46	0

**Effective:** July 27, 1997

## SHB 1076

C 430 L 97

Reforming regulatory activities.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Reams, Poulsen, Mastin, Hatfield, Skinner, Linville, Dyer, Kessler, Sherstad, Grant, Pennington, Mielke, Thompson, Carlson, Boldt, Bush, Smith and D. Schmidt).

House Committee on Government Reform & Land Use  
Senate Committee on Government Operations  
Senate Committee on Ways & Means

**Background:** As part of significant changes to agency rule-making in 1995, the Legislature imposed requirements on some agencies when they adopt significant legislative rules. These requirements apply to the departments of Labor and Industries, Revenue, Ecology, Health, Employment Security, and Natural Resources, as well as the Forest Practices Board and the Insurance Commissioner. The Department of Fish and Wildlife must also

follow these requirements when adopting certain hydraulics rules. Significant legislative rules are all rules other than emergency rules, fee-setting rules, and certain excepted rules.

The identified agencies must make certain determinations when adopting significant legislative rules. These determinations include that the probable benefits exceed the probable costs, that the rule does not require persons to take an action which violates another federal or state law, and other determinations. In the rule making file, the agencies must place sufficient documentation to justify the determinations, as well as a rule implementation plan. The agencies must also coordinate implementation and enforcement of the rule with other federal and state entities that regulate the same activity or subject matter. The Joint Administrative Rules Review Committee may require that any state agency rule be subject to these requirements. Certain rules, including emergency rules, procedural and interpretive rules, fee-setting rules, and other types of rules are exempt from these requirements.

Under the Open Public Meetings Act, all meetings of the governing body of a public agency must be open and public. Agencies with single director management, such as the Department of Social and Health Services (DSHS), and advisory bodies are not covered by the act.

**Summary:** The DSHS is added to the list of agencies required to follow the requirements for significant legislative rules. Rules of the DSHS relating to client medical or financial eligibility and rules concerning liability for care of dependents are exempt from the significant legislative rules requirements.

Committees or councils required by federal law, within the DSHS, that make policy recommendations regarding drug reimbursement are subject to the Open Public Meetings Act.

**Votes on Final Passage:**

House	73	23	
House	74	22	(House reconsidered)
Senate	45	2	(Senate amended)
House	97	0	(House concurred)

**Effective:** July 27, 1997

## HB 1081

C 9 L 97

Strengthening school policies and prohibitions on the use of tobacco at schools.

By Representatives Koster, Mulliken, Dunn, Mielke, Thompson, McMorris, Boldt, Sterk, Sherstad, Bush and Smith.

House Committee on Education  
Senate Committee on Education

**Background:** Since 1991, the Legislature has required school districts to forbid smoking and the use of other to-

## ESHB 1085

bacco products on school property. School districts have the discretion to determine specific policies and sanctions. School districts frequently include tobacco policies in school policy handbooks distributed to staff and students. Some school districts have tobacco cessation programs, either singly or in conjunction with a general drug prevention program. For students caught smoking or using tobacco, many school districts apply a graduated sanction approach. Typically, the school district issues the student a warning on the first offense. The school district may sanction repeated offenses by suspending the student or requiring the student to enroll in a program to stop tobacco use. School districts may allow an exemption on the tobacco prohibition for alternative schools within the school district.

**Summary:** School district tobacco policy requirements are clarified.

School districts must have a written tobacco policy that prohibits the use of tobacco products on school property. At a minimum, school districts must notify school personnel and students of the prohibition, post signs that prohibit the use of tobacco products, sanction school personnel and students who violate the policy, and require school district personnel to enforce the school district policy in addition to enforcing current prohibitions on smoking in public places. The exemption for alternative schools is removed.

### Votes on Final Passage:

House	97	0
Senate	26	20

**Effective:** August 1, 1997

## ESHB 1085

### FULL VETO

Requiring notification before a school conducts certain student tests, questionnaires, surveys, analyses, or evaluations.

By House Committee on Education (originally sponsored by Representatives Mulliken, Johnson, Koster, Backlund, Sump, Talcott, Crouse, Thompson, Mielke, Bush, Sherstad, Carrell, Smith and Van Luven).

House Committee on Education  
Senate Committee on Education

**Background:** The State Board of Education has adopted an administrative rule that prohibits, absent written parental consent, using questionnaires to obtain information about a student's or a student's parent's personal beliefs or practices about sex or religion. Another rule adopted by the board requires school districts to obtain written consent of a parent prior to administering any diagnostic personality test to the parent's child.

The Legislature has enacted a general provision that requires school districts to adopt policies to ensure that a parent has access to teaching materials used to teach the

parent's child. That provision does not require that advance notice be given to a parent before the school conducts questionnaires.

**Summary:** Any material that will be used to conduct a test, questionnaire, survey, analysis or evaluation must be available for inspection by parents and school board members.

Prior consent of a student who is an adult or emancipated minor or prior consent of the parent of an unemancipated minor is required before administering certain tests or questionnaires to students. This consent is required for tests, questionnaires, surveys, analyses, or evaluations that involve eliciting information about the student's or the student's parent's:

- personal beliefs or practices regarding political affiliations;
- mental problems potentially embarrassing to the student or the student's family;
- sexual behavior or attitudes;
- illegal, anti-social, self-incriminating, or demeaning behavior;
- critical comments about other family members;
- legally privileged communications (with doctors, lawyers, ministers); or
- income level, except as required by law to determine eligibility for participation in a program or to receive financial assistance under the program.

Educational agencies must give parents and students effective notice of their rights prior to administering any test or questionnaire that asks any of the enumerated questions. Prior to administering the test or questionnaire, the school board members must be given an opportunity to hear a presentation about the test or questionnaire.

### Votes on Final Passage:

House	57	39	
Senate	40	9	(Senate amended)
House	54	37	(House concurred)

### VETO MESSAGE ON HB 1085-S

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1085 entitled:

"AN ACT Relating to notification of student testing or survey;"

The intent of Engrossed Substitute House Bill 1085 was to clarify the rights of parents and students with regard to tests or surveys that seek information of a personal nature. I agree whole-heartedly with that intent. However, the bill is both over broad and ambiguous.

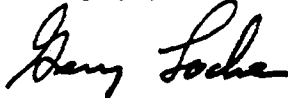
ESHB 1085 would require that each member of the school board be notified in writing of plans to administer a broad category of tests or surveys, in addition to giving the board the opportunity to hear a presentation about the proposed test or survey. It would also require parental consent prior to any test or survey that reveals "potentially embarrassing" information



about mental or psychological problems, or asks about "de-meaning behavior". These provisions are over broad and ambiguous. Further, ESHB 1085 is unnecessary; existing administrative rules adequately address the issue.

For these reasons, I have vetoed Engrossed Substitute House Bill No. 1085 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SHB 1086

C 411 L 97

Establishing criteria that limit school employees' ability to remove students from school.

By House Committee on Education (originally sponsored by Representatives Mulliken, Johnson, Koster, Sump, Thompson, Crouse, Mielke and Sherstad).

House Committee on Education  
Senate Committee on Education

**Background:** School districts must have policies to ensure that a student is not removed from school grounds during school hours unless the student's parent or legal guardian authorizes the removal. This authorization requirement does not have to apply to secondary students in grades nine through 12. For secondary students, school districts must have an open campus policy that specifies any restrictions on students leaving secondary school grounds during school hours. High school students may be removed from school grounds without parental notification or authorization.

**Summary:** Conditions for removing school district students from school grounds without parental authorization are established.

The conditions for removing students from school grounds are applicable to students in grades nine through 12. School employees or their designees may not remove students from school grounds during school hours without parental authorization unless:

- the school employee is the student's parent, legal guardian, or immediate family member;
- the removal is for student transportation purposes or extracurricular activities; or
- the removal is in response to a medical emergency and the employee cannot reach the parent to transport the student.

School security personnel may remove a student from school grounds without parental permission for disciplinary reasons. Students may be removed in response to a 911 emergency call.

Students may leave secondary school grounds only in accordance with a school's open campus policy.

### Votes on Final Passage:

House	55	40	
Senate	48	1	(Senate amended)
House	97	0	(House concurred)
House	68	29	(House reconsidered)

Effective: July 27, 1997

## SHB 1089

### PARTIAL VETO

C 59 L 97

Correcting references to the former aid to families with dependent children program.

By House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Tokuda, Radcliff, Backlund, Boldt, Mason and Cairnes).

House Committee on Children & Family Services  
Senate Committee on Health & Long-Term Care

**Background:** The U.S. Congress repealed the Aid to Families with Dependent Children (AFDC) program and replaced it with the Temporary Assistance for Needy Families (TANF) program as part of federal welfare reform.

**Summary:** References to the AFDC program in the Revised Code of Washington are deleted and replaced with references to the TANF program.

### Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 27, 1997

**Partial Veto Summary:** The Governor vetoed two sections that were also amended by EHB 3901, to avoid inconsistency between the two bills.

### VETO MESSAGE ON HB 1089-S

April 17, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 20 and 25, Substitute House Bill No. 1089 entitled:

"AN ACT Relating to correcting nomenclature for the former aid to families with dependent children program;"

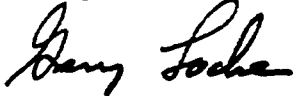
As part of federal welfare reform, Congress repealed the Aid to Families with Dependent Children ("AFDC") program, and replaced it with the Temporary Assistance for Needy Families ("TANF") program. Substitute House Bill No. 1089 corrects references in Washington law, by deleting references to AFDC and replacing them with references to TANF.

Sections 20 and 25 of Substitute House Bill No. 1089, are further amended by sections 506 and 601, respectively, of Engrossed House Bill No. 3901. They must be vetoed to avoid inconsistency between the two bills.

## EHB 1096

*For these reasons, I have vetoed sections 20 and 25 of Substitute House Bill No. 1089. With the exception of sections 20 and 25, I am approving Substitute House Bill No. 1089.*

*Respectfully submitted,*



Gary Locke  
Governor

## EHB 1096

C 121 L 97

Concerning the payment and recovery of fees.

By Representatives Sheahan, Costa, Lambert, Scott and Hatfield.

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** A "legal financial obligation" may be incurred by an adult or juvenile offender upon conviction or adjudication. Under the Sentencing Reform Act, which applies to adult offenders, a legal financial obligation is a court-imposed obligation to pay money and may consist of any of the following:

- restitution to the victim;
- statutorily imposed crime victims' compensation fees;
- court costs;
- county or interlocal drug fund assessments;
- court-appointed attorneys' fees, and costs of defense;
- fines;
- reimbursement for emergency response expenses in the case of a DWI-related vehicular assault or vehicular homicide conviction; or
- any other financial obligation that is assessed to the offender as a result of a felony conviction.

Under the Juvenile Justice Act, the court may impose restitution on a juvenile offender and may order a payment plan that can extend up to ten years.

In 1995, the Legislature amended the statute of limitations for the enforcement of judgments to allow for the collection of a legal financial obligation up to 10 years after the date of the entry of judgment, or the date when the offender is released from total confinement, whichever is later. In addition, a "party" who obtains a judgment may seek an additional 10-year extension on the period for collection. An application for an extension must be made within 90 days of the expiration of the original 10-year period and must be accompanied by the regular civil filing fee and an updated judgment summary. It is unclear whether the clerk of the superior court is a "party" within this provision.

A county may collect unpaid court obligations through a contract with a collection agency or through its own collection services department. Collection of obligations

from a criminal offender may be pursued only with the agreement of the Department of Corrections if the offender is under the supervision of the department.

**Summary:** A judgment imposing legal financial obligations, including crime victims' assessments, may be extended by the county clerk for 10 years solely for the purpose of collecting unpaid court obligations through a collection agency or a collection services department.

The extension of the period to collect financial obligations from a felony offender does not extend the Department of Corrections' responsibility for supervising the offender.

When a juvenile offender turns 18, or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court must docket the balance on the juvenile's remaining legal financial obligations, and this judgment remains enforceable until 10 years from the date of its imposition. Juvenile restitution provisions are amended to specifically authorize the court to extend the judgment for an additional ten years.

### Votes on Final Passage:

House	98	0
Senate	46	0

**Effective:** July 27, 1997

## HB 1098

C 10 L 97

Changing teachers' retirement system plan III contribution rates.

By Representatives Carlson, H. Sommers, Cooke, Conway, Sehlin, Ogden, Wolfe, Blalock, Constantine, Tokuda, Hatfield, Dunn, Wood, O'Brien, Veloria, Kessler, Cairnes, Murray, Keiser, Sheldon, Anderson, Cody, Kenney, Scott, Dunshee and Mason; by request of Joint Committee on Pension Policy.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The Teachers' Retirement System Plan III (TRS III) was enacted during the 1995 legislative session and was opened to membership July 1, 1996. The purpose of the TRS III is to give vested employees more flexibility in determining the form and timing of their retirement benefits and to allow employees to change careers without a dramatic loss of retirement benefits.

The Joint Committee on Pension Policy (JCPP) developed and recommended the TRS III to the Legislature. One of the principles followed in developing the TRS III was that any new plan was to be cost neutral to the state.

The TRS III has two components: (1) a defined benefit component paid by the employer; and (2) a defined contribution component paid by the employee. This two-component approach is different from the Teachers' Retirement System Plan II (TRS II) in which the employer

and employee contributions are both used to provide the defined retirement benefit.

New teachers hired after July 1, 1996, are required to be members of the TRS III. Members of the TRS II can make an irrevocable decision to join the TRS III by transferring their plan II service credit and contributions. If a TRS II member elects to switch to the TRS III, the member's employee contributions, plus interest, are transferred to an individual defined contribution account. The TRS III established a two-year transfer window beginning July 1, 1996, and ending January 1, 1998. If a TRS II member chooses to transfer within that window, an additional payment of 20 percent of the employee contributions as of January 1, 1996, will be deposited into the member's defined contribution account at the end of the two-year window.

The purpose of the additional transfer payment was to maintain the cost neutrality of TRS III. The 20 percent payment requirement reflects the assumptions made in the 1994 fiscal note on the TRS III legislation.

Legislation creating the TRS III specifies that the TRS II employee contribution rates will not exceed the plan II and plan III rates. The restriction becomes effective September 1, 1998.

**Summary:** The additional payment made to the defined contribution account of teachers transferring from the TRS II to the TRS III is increased from 20 percent to 40 percent.

A technical correction is made to change the effective date of the limitation on TRS II employee contribution rates to the beginning of the 1997-99 period (September 1, 1997).

**Votes on Final Passage:**

House	95	0
Senate	43	1

**Effective:** July 27, 1997

**HB 1099**

C 122 L 97

Transferring law enforcement officers' and fire fighters' retirement system plan I service.

By Representatives Cooke, Ogden, Sehlin, Carlson, Wolfe, H. Sommers, Dyer, Cairnes, Murray and Mason; by request of Joint Committee on Pension Policy.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The general portability provisions of Washington's public retirement systems give most members with service in more than one state retirement system (dual members) value in specific ways when the members change public sector jobs:

- the members may combine service in more than one system to qualify for certain benefits for which they might not otherwise qualify if eligibility is based solely on service in one system;
- the members may use their highest compensation when calculating certain benefits in all systems; and
- some members are permitted to restore service credit in their prior system once they establish dual membership.

The members of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan I (LEOFF I) is not covered by the state's general portability provisions. If a former LEOFF I member receives a pension from LEOFF I and from another state retirement system, then each pension will be based on the service credit and salary earned in each system separately.

**Summary:** Former LEOFF I members who are now active members of any of the public employees' retirement system plans, the teachers' retirement system plans, or the Washington State Patrol retirement system are given an irrevocable option to transfer their prior LEOFF I service credit to their current retirement system and plan. Members who have withdrawn contributions from LEOFF I will be given an opportunity to restore prior to transfer. Upon transfer, rights under LEOFF I are forfeited, including post-retirement medical benefits.

If the individual seeking to transfer LEOFF I service credit is in an eligible position as of July 1, 1997, the individual must file the decision to transfer in writing with the Department of Retirement Systems (DRS) no later than July 1, 1998. If the individual is not in an eligible position as of July 1, 1998, he or she must file the decision to transfer with the DRS no later than one year from the date the individual is employed in an eligible position.

After an individual chooses to transfer LEOFF I service credit, the member's contributions are transferred to the member's current retirement system, and an additional transfer will be made from LEOFF I to offset all increased costs in the member's current system resulting from the transfer.

Transferred service credit will not count toward eligibility for public retirement system military service credit. After the transfer window closes, a member may elect to transfer service by paying the full cost of the increased benefit resulting from the transfer.

**Votes on Final Passage:**

House	95	0
Senate	47	0

**Effective:** July 27, 1997

HB 1102

C 221 L 97

Retirement benefits based on excess compensation.

By Representatives Lambert, H. Sommers, Cooke, Carlson, Conway, Ogden and Mason; by request of Joint Committee on Pension Policy.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** "Earnable compensation" for purposes of determining a state retirement system member's pension is generally defined as the salary or wages payable for services rendered to the employer. Annual leave cash-outs may be included in the earnable compensation of the Public Employees' Retirement System (PERS) I and Teachers' Retirement System (TRS) I members. Members of PERS II, TRS II and III, and both of the Law Enforcement Officers' and Fire Fighters' (LEOFF) Plans may not include cash-outs in their earnable compensation.

"Excess compensation" is all earnable compensation used in the calculation of the retirement benefit except regular salary, overtime compensated at up to twice the employee's regular rate of pay, and annual leave cash-outs not exceeding 240 hours. The definition of excess compensation includes:

- cash-outs for sick or any other type of leave;
- payments for, or in lieu of, personal expenses or a transportation allowance;
- termination or severance payments;
- payments added to regular wages concurrent with reduction of annual leave; and
- the portion of any payment, including overtime, that exceeds the employees' regular rate of pay.

Employers are liable for the extra costs to the retirement system generated by retirement benefits based on excess compensation. However, administration of this provision has proved difficult because "regular salary" is not defined in statute.

**Summary:** The definition of excess compensation, for the purpose of determining an employer's liability for retirement benefits under the state retirement system, is modified by (1) removing the reference to "regular salary;" and (2) limiting the definition, with clarifications, to the current list of payments that constitute excess compensation.

**Votes on Final Passage:**

House	95	0
Senate	44	0

**Effective:** July 27, 1997

SHB 1105

C 123 L 97

Providing retirement credit for leave for legislative service.

By House Committee on Appropriations (originally sponsored by Representatives Ogden, Sehlin, H. Sommers, Lambert, Carlson, Wolfe, Anderson and Scott; by request of Joint Committee on Pension Policy).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** Members of the Teachers' Retirement System (TRS), the Public Employees' Retirement System (PERS), and the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) may earn credit while serving as legislators. Legislators who are members of the Washington State Patrol Retirement System (WSPRS) or participants in the nonprofit retirement system for higher education faculty, do not have this option.

**Summary:** A member of the Washington State Patrol Retirement System (WSPRS) serving in the Legislature on or after January 1, 1995, may elect to continue to earn service credit during the legislative session. The Legislature will pay the employer contributions to the WSPRS based on the compensation the member would have earned had the member not served in the Legislature.

A member of the higher education faculty retirement system serving in the Legislature on or after January 1, 1997, may choose to continue participation in that retirement program during the legislative session. The employing institution of higher education will pay the employee's salary attributable to legislative service and corresponding employer contributions. The Legislature must reimburse the institution for both the salary and the employer contributions.

**Votes on Final Passage:**

House	92	0
Senate	46	0

**Effective:** July 27, 1997

ESHB 1110

C 439 L 97

Prohibiting a moratorium on new appropriations of Columbia or Snake river waters based on certain contingencies.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Mastin, McMorris, Koster, Delvin, Mulliken, Schoesler and Honeyford).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Through the adoption of emergency and more permanent rules, the Department of Ecology has placed applications for water right permits to withdraw water from the main stems of the Columbia and Snake rivers on hold. The rules do not apply to applications that were filed with the department before December 20, 1991, which is the date the National Marine Fisheries Service listed Snake River sockeye salmon as endangered under the federal Endangered Species Act. The rules are now scheduled to expire on July 1, 1999, unless a new instream resources protection program is adopted by the department before that date.

The rules establishing this "moratorium" policy apply to applications for the use of surface water and to applications for the use of groundwater that is in direct hydraulic continuity with the main stem of either river. Certain exceptions to the moratorium are provided by the rules.

**Summary:** A rule adopted by the DOE establishing a moratorium on processing permits for the use of water from the main stem of the Columbia River is declared to be void. Before proposing to adopt rules withdrawing any waters of the state from further appropriation, the DOE must consult with the standing committees of the House and Senate with jurisdiction over water resource management. A reference to a section of law that expired in 1989 is repealed.

**Votes on Final Passage:**

House	58	37	
Senate	47	0	(Senate amended)
House	73	18	(House concurred)

**Effective:** July 27, 1997

**ESHB 1111**  
FULL VETO

Granting water rights to certain persons who were water users before January 1, 1993.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Koster, Delvin, Mulliken, Johnson, B. Thomas and Honeyford).

House Committee on Agriculture & Ecology  
House Committee on Appropriations  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. The permit system is based on the prior appropriation doctrine that "first in time is first in

right." Prior to these enactments, rights to water were obtained in a variety of ways and under a variety of water doctrines.

**Summary:** A procedure is established under which a person who used water for certain uses before January 1, 1993, without a state water use permit or certificate is allowed to continue to use the water. This procedure applies to persons who used the water beneficially for irrigation or stock watering purposes or for domestic uses by a public water supply system with up to 150 service connections. To continue using the water beneficially, the person or public water supply system must: (1) file with the Department of Ecology (DOE) a statement of claim for the use during a filing period beginning September 1, 1997, and ending midnight, June 30, 1998; and (2) file with the statement of claim certain specified evidence that the water described in the claim was used beneficially as claimed before January 1, 1993. The person or system must have used the water to the full extent of the claim during one of the last five years. The procedure does not apply to the use of water for which an application has been denied by the DOE.

If the person or system has not already filed an application for a water right for the use stated in the statement of claim, the person or system must file such an application with the statement of claim. If a claimant does so, the claimant has standing to assert a claim of a water right in a general adjudication proceeding for the use. The claimant may continue using the water until the DOE makes a final decision granting or denying the application or, prior to such a decision, a superior court issues a general adjudication decree defining or denying the use. The DOE or court may authorize the continued use of water only if the claimant meets the requirements of: provisions of the surface water code regarding instream flows set by rule, the processing of an application, the implementation of a water use permit, and the issuance of a water right certificate; the provisions of the ground water code; and a section of the Water Resources Act of 1971 declaring fundamentals that govern the use and management of water. However, a decision by the DOE on the application must follow the completion and adoption of a locally developed water resource watershed plan for the area. If the applicable requirements are met, a water right certificate is to be issued. The priority date of the right is the date the application was filed with the DOE.

Such a right of continued use may not affect or impair a right that existed before the opening of the claim filing period. These statements of claim are to be filed in a new registry of claims. The filing of a statement of claim does not constitute an adjudication of the claim between the claimant and the state or between a water use claimant and others. However, a statement of claim is admissible in a general adjudication of water rights as prima facie evidence of certain aspects of the right.

**SHB 1118**

This granting of a right to use water may not apply: (1) in an area where similar rights are being adjudicated in a general adjudication proceeding; or (2) in an area that is currently regulated under rules establishing acreage expansion limitations as part of a groundwater management plan.

**Votes on Final Passage:**

House	67	28	
Senate	37	12	(Senate amended)
House			(House refused to concur)
Senate	29	15	(Senate amended)
House	69	29	(House concurred)

**VETO MESSAGE ON HB 1111-S**

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval Engrossed Substitute House Bill No. 1111, entitled:

“AN ACT Relating to granting water rights;”

Washington’s water law is designed to ensure that water is obtained according to a fair and impartial process. Water rights are obtained only after it is determined through a systematic process that water is available, that the water will be applied to a beneficial use, that the use of the water will not impair existing rights, and that the use of the water will not be detrimental to the public interest.

Engrossed Substitute House Bill No. 1111 would set up a separate, parallel track for the issuance of water rights. It would reward unauthorized users of water by allowing them to file water rights applications and continue their use until the Department of Ecology makes decisions on the applications, while those who have complied with the law wait for decisions without water. Furthermore, those who have pending applications may be denied water rights because of the unavailability of water caused by the unauthorized uses this bill would continue to allow. This is unfair to those who have complied with the water right permitting process.

There is an increasing expectation that many water use issues will be resolved at the local watershed level. Amnesty for unauthorized water use should be considered during such a local watershed planning effort, not provided through statewide legislation beforehand.

For these reasons, I have vetoed Engrossed Substitute House Bill No. 1111 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**SHB 1118**

**PARTIAL VETO**

C 440 L 97

Reopening the water rights claim filing period.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Mastin, Chandler, Johnson, Boldt and Honeyford).

House Committee on Agriculture & Ecology  
House Committee on Appropriations  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** Code and Pre-Code Rights. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water were established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. The permit system is based on the prior appropriation doctrine that “first in time is first in right.” Prior to the enactment of the 1917 and 1945 codes, rights to water were obtained in a variety of ways and under a variety of water doctrines. The surface water code expressly acknowledges the validity of water rights established prior to its enactment. The use of groundwater under the 1945 act is subject to existing rights.

Registration Required. With the enactment of legislation in 1967, the state required persons with claims of rights to the use of water based on something other than a water right permit or certificate to register the claims with the Department of Ecology. In general, claims had to be filed by June 30, 1974. However, the filing period was reopened on a limited basis in 1979 and again in 1985. A person who failed to file a statement of claim as required is deemed to have relinquished the right.

Summary: New Claim Filing Period. A new period for filing statements of claim for water rights is established. The period begins on September 1, 1997, and ends at midnight on June 30, 1998. This reopening of the filing period is for persons whose water rights pre-date the water codes but who failed to file statements of claims for the rights during the previous filing periods. Existing rights are not to be impaired, and a claim filed during the new filing period is subordinate to rights embodied in water right permits and certificates issued before the claim is filed and is subordinate to claims filed in the state registry during previous filing periods. The new filing period does not apply to groundwater rights which may be obtained without a permit under current law, rights for which a water right permit or certificate have been issued, or claims that have been previously filed in the state registry. Claims cannot be filed for the withdrawal of water in any area that is the subject of an ongoing general adjudication proceeding for water rights. Nor may they be filed for rights in an area that is currently regulated under rules establishing acreage expansion limitations as part of a groundwater management plan.

The Department of Ecology (DOE) must publish a notice regarding the new filing period during the month of August 1997 and during the filing period. The DOE must also provide information describing the types of rights for

which claims must be filed, the effect of filing, the effect of not filing, and other information regarding filings and statements of claim.

**Amendments to Claims Already on File.** Amendments to statements of claims that are already in the claims registry may be submitted to correct errors in the statements. An amendment must be filed during the new filing period, and the claimant must attest that the amendment does not constitute an expansion of the right for which the original statement of claim was intended.

**Prohibition Against Certain Agency Actions.** During the period beginning March 1, 1994, and ending with the close of the new filing period, neither the DOE nor the Pollution Control Hearings Board may determine or find that relinquishment of a right has occurred as a result of a person's failure to file a claim. If such a determination or finding has been issued after March 1, 1994, but before the effective date of the bill, the determination or finding is void, and the remedy for the person against whom it was made is to file a new claim or an amendment to a previously registered claim.

**Availability of Staff and Information.** The DOE must ensure that its employees are readily available for inquiries regarding statements of claim and that all of the information the agency has at its disposal is available to the person making the inquiry. The department must provide water right records to requesters within 10 working days in certain circumstances.

**Votes on Final Passage:**

House	82	14	
Senate	41	8	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	24	16	(Senate failed)
Senate	33	13	(Senate reconsidered)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the provisions of the bill authorizing the filing of amendments to correct any errors in previously filed statements of claim and establishing a time period during which DOE and the PCHB are prohibited from finding that a water right has been relinquished failure to file a claim.

**VETO MESSAGE ON HB 1118-S**

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4 and 5, Substitute House Bill No. 1118 entitled:

"AN ACT Relating to water right claims;"

I have approved most sections of Substitute House Bill No. 1118. It is my hope that this legislation will clear up the murky past of water rights claims and put an end to the confusion over who needed to file claims in the Water Rights Claims Registry.

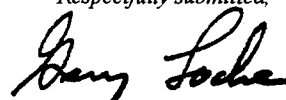
I have vetoed section 4 for two reasons. The first reason is that an existing statute (RCW 90.14.065) provides a mechanism to amend an existing claim filed with the Water Rights Claim

Registry. The second reason is that the burden of proof for such amendments would be placed on the Department Ecology instead of the claimant. I have vetoed section 5 because the exemption from relinquishment is retroactive to March 1, 1994. It is reasonable to provide protection from relinquishment for those filing new claims. However, the retroactive provision is problematic because it would conflict with one or more Superior Court decisions related to the relinquishment of water rights due to the failure to file a claim.

For these reasons, I have vetoed sections 4 and 5 of Substitute House Bill No. 1118.

With exception of sections 4 and 5, Substitute House Bill No. 1118 is approved.

Respectfully submitted,



Gary Locke  
Governor

**HB 1119**

C 151 L 97

Extending the expiration date of an act requiring the purchaser of privately owned timber to report to the department of revenue.

By Representatives Schoesler, Sheldon, Buck, Hatfield, Johnson, Kessler and Boldt.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Timber owners pay a 5 percent timber excise tax on the value of their timber when they cut it. The tax is based on timber stumpage values. Stumpage is the value of timber as it stands uncut in the woods. The Department of Revenue is required to establish timber stumpage values semi-annually. Until the early 1990's, the department used publicly owned timber sales as comparable sales for computing stumpage values. Since that time, the number of public sales has declined significantly.

Purchasers of more than 200,000 board feet of privately owned timber are required to report transaction details to the Department of Revenue. Purchasers of privately owned timber who fail to report may be liable for a penalty of \$250 for each failure to report. The requirement to report timber purchase details expires March 1, 1997.

**Summary:** The expiration date on private timber sale reporting to the Department of Revenue is extended to July 1, 2000.

**Votes on Final Passage:**

House	95	0
Senate	44	0

**Effective:** April 23, 1997

## SHB 1120

### SHB 1120

C 47 L 97

Changing provisions relating to territory included in city and town boundary extensions.

By House Committee on Education (originally sponsored by Representatives Koster, Costa, Johnson and Scott; by request of Board of Education).

House Committee on Education  
Senate Committee on Education

**Background:** The Legislature enacted the "city or town districts" statute in 1909. The statute's policy objective is to ensure that each city or town is served by a single school district. Over the years, the Legislature has added several procedural requirements to change school district boundaries in response to city or town boundary changes. The Legislature also created regional committees in each educational service district to review certain proposals on school district organization.

In some town or city boundary extensions, the educational service district superintendent must automatically transfer school district territory that is located within the annexed territory to the school district affiliated with the city or town that is annexing the territory. The educational service district superintendent must take this action when the city or town boundary extension affects a school district that:

- operates all schools on a single site, or
- operates only elementary schools on two or more sites.

If the school district territory included in the annexation contains a school building, the educational service district superintendent must also present to the regional committee, a proposal for disposing of the remaining school district territory.

When a city or town that is expanding its boundaries includes a school district that operates elementary schools on more than one site or operates junior high or high schools, the regional committee may, at its discretion and subject to several conditions, submit a proposal to the State Board of Education regarding the transfer of any part or all of the school district's territory to the district affiliated with the annexed territory.

**Summary:** The regional committees on school district organization may, at their discretion, propose to transfer school districts affected by city or town annexations.

Educational service district superintendents no longer must transfer school district territory that is located within the annexed territory to the school district affiliated with the city or town that is annexing the territory when the school district in the annexed territory operates all schools on a single site, or operates only elementary schools on two or more sites. Regional committees may propose to transfer any part or all of a school district resulting from a town or city boundary extension.

### Votes on Final Passage:

House	95	0
Senate	46	0

Effective: April 16, 1997

## SHB 1124

C 48 L 97

Requiring that information about state higher education support be given to students with their tuition and fee bills.

By House Committee on Higher Education (originally sponsored by Representatives Quall, Carlson, Mason, Radcliff, Hatfield, Chopp, Lantz, O'Brien, Kessler, Murray, Gombosky, Morris and Costa).

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** Since 1993, institutions of higher education have been required to provide information annually to students on the approximate amount of the state contribution to the students' education. The information is developed by the Higher Education Coordinating Board. It includes the support received by students attending each public baccalaureate institution and the community and technical colleges as a whole. It also includes the amount of financial aid received by students attending independent institutions.

Institutions may provide the information in any format deemed appropriate for students. The format may include posters, handouts, and information in registration packets.

**Summary:** Beginning with the 1997 fall academic term, at the beginning of each academic term, public and independent institutions of higher education will provide information to students on the approximate amount of the state's contribution to the students' education. The information will be distributed through one or more of the following means: registration materials, class schedules, tuition and fee-billing packets, student newspapers, or through e-mail or kiosks.

### Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 27, 1997

## HB 1162

C 236 L 97

Providing for delegation of lien and subrogation rights to medical health care systems by contract.



By Representatives Dyer and Cody; by request of Department of Social and Health Services.

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** The Department of Social and Health Services (DSHS) provides medical assistance (mostly Medicaid funded) through managed care organizations (MCOs). These MCOs are health insurance carriers such as health care service contractors and health maintenance organizations. The Medical Assistance Administration within the DSHS contracts with 19 MCOs to provide services to about 437,000 children, pregnant women, and income assistance recipients through a program widely known as *Healthy Options*.

Sometimes assistance under this program is furnished to a Medicaid beneficiary who has been injured by the wrongful act of another person. In such a case, the DSHS has certain express statutory rights regarding the recovery of payments it has made to the beneficiary. The DSHS is subrogated to the beneficiary's claim against the person who caused the injury, and the department also has a lien against payments the beneficiary may get from the wrongdoer or from an insurer. The statute that gives these subrogation and lien rights to the DSHS does not expressly allow for the use of these same rights by an MCO that has actually provided services under the program. Since Medicaid is, by federal law, the "last" payer, it is necessary for the MCO to recover any payment due the beneficiary.

**Summary:** Express authority is given to the DSHS to delegate its powers of lien and subrogation to an MCO.

**Votes on Final Passage:**

House	95	0
Senate	47	0

**Effective:** July 27, 1997

## SHB 1166

C 237 L 97

Limiting the amount collected by a government for handling found property.

By House Committee on Government Administration (originally sponsored by Representatives Romero, D. Schmidt, Scott, Wolfe, Dunn and Mason).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Various laws establish procedures for handling lost or unclaimed property in different situations. Property found by private citizens is handled differently from that found by law enforcement officers such as city police, state patrol, or county sheriffs. Other procedures govern the handling of unclaimed property held by museums or historical societies. Unclaimed intangible property

held by a person who is not the owner is also handled differently.

Any person who, as a private citizen, finds property whose owner is unknown and who wishes to claim the property must first report the find to the chief law enforcement officer of the governmental entity with jurisdiction over the location where the property was found. The finder must have the property appraised and must publish notice of the find at least twice. The chief law enforcement officer may require the finder to surrender the property while these steps are being taken. Once the requirements have been met and at least 60 days have passed, the found property may be released to the finder. If the property is valued at more than \$25, the finder must also pay a fee to the treasurer of the governmental entity handling the found property. That fee is either \$5, or 10 percent of the appraised value of the property, whichever is greater.

**Summary:** If the found property is cash, then the finder is not required to have its value appraised. The responsibility for publishing notice of the found property is moved to the governmental entity that has jurisdiction over the location where the property was found. The finder must reimburse the governmental entity for the cost of publication. The handling fee paid by a private citizen to claim found property is changed to a flat fee of \$10. If the value of the property is less than the cost of publication, then the governmental entity does not have to publish notice, and the finder does not have to pay the handling fee.

**Votes on Final Passage:**

House	97	0
Senate	47	0

**Effective:** July 27, 1997

## SHB 1171

C 49 L 97

Revising emergency management statutes.

By House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott and Dunshee; by request of Military Department).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** A comprehensive program of emergency management exists in the state. In 1995, the Legislature transferred the authority to administer this program from the Department of Community, Trade and Economic Development to the Military Department, whose director is the Adjutant General.

The Adjutant General is required to develop a comprehensive, all-hazard emergency plan for the state that includes an analysis of natural and man-caused hazards, and procedures to coordinate local and state resources in responding to such hazards. In the event of a disaster be-

yond local control, the Governor, through the adjutant general, may assume operational control over all or any part of emergency management functions in the state.

Each county and city is required to establish a local organization for emergency management and prepare a local emergency management plan. The adjutant general may allow two or more counties or cities to establish a single local organization. Local plans are submitted to the adjutant general for recommendations and certification of consistency with the state comprehensive emergency management plan.

A system of enhanced 911 service is established throughout the state on either a countywide or multi-county basis. Each county is required to implement an enhanced 911 communications system that is funded with receipts from a telephone access line tax.

A state fire service mobilization plan is established to provide for large-scale mobilization of fire fighting resources in the state by action of the Adjutant General. The plan includes mutual aid agreements and state reimbursement for outside jurisdictions that mobilize under the plan, as well as for a host jurisdiction if its resources are exhausted.

Seven regions are designated in the state, with a regional fire defense board in each region consisting of two members from each member county. The boards develop regional service plans for mutual aid responses that are consistent with the incident command system and state fire services mobilization plan.

**Summary:** A number of changes are made to laws relating to emergency management.

The term "man made" disaster is altered to "technological, or human caused" disaster.

The state comprehensive emergency plan and local comprehensive emergency plans must include use of an incident command system, which is defined as an all-hazards, on-scene functional management system, or a unified command for multi-agency or multi-jurisdictional operations that is a component of the national interagency incident management system.

The "executive head" of a city is defined, depending on whether the city operates under a mayor council, commission, or council manager system of government.

The term "joint" local emergency management organizations replaces the term "multi-jurisdictional" local emergency management organizations.

The Adjutant General verifies, rather than certifies, whether a local comprehensive emergency management plan is consistent with the state comprehensive emergency management plan.

A variety of groups assist in the development of a model contingency plan for hazardous waste management and pollution control facilities, rather than actually developing a model contingency plan.

Changes take cognizance of the transfer of fire service mobilization functions from the Department of Commu-

nity, Trade and Economic Development to the Military Department, and the transfer of state fire marshal functions from the Department of Community, Trade and Economic Development to the Washington State Patrol.

All fire fighting resources, including the host fire protection authorities, are mobilized under the fire service mobilization plan.

**Votes on Final Passage:**

House	97	0
Senate	48	0

**Effective:** July 27, 1997

**SHB 1176**

C 339 L 97

Adding child rape to the two strikes list.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Koster, Boldt, Smith, Backlund, Dunn, McMorris, Schoesler, Sheldon, Johnson, DeBolt and Mulliken).

House Committee on Criminal Justice & Corrections  
Senate Committee on Law & Justice

**Background:** Under what is commonly referred to as the "Two Strikes and You're Out" law, a person is considered a "persistent offender" if:

(1) the person has been convicted of any of the following sex offenses:

- (a) rape in the first degree;
- (b) rape in the second degree;
- (c) indecent liberties by forcible compulsion;
- (d) murder in the first or second degree, kidnaping in the first or second degree, assault in the first or second degree, or burglary in the first degree when those offenses are committed with sexual motivation; or
- (e) an attempt to commit any of those sex offenses; and

(2) the person has been convicted on at least one prior separate and distinct occasion of any one of the listed sex offenses.

The commission of the offense and the conviction for that offense count as a "strike," and both must occur before the next commission and conviction of an offense can count as another "strike."

"Persistent offenders" are sentenced to life imprisonment without possibility of parole. "Persistent offenders" are not eligible for community custody, earned early release time, furlough, home detentions, partial confinement, work crew, work release, or any other form of early release.

A person commits rape of a child in the first degree when the person has sexual intercourse with a child who is less than 12 years old and not married to the perpetrator, and the perpetrator is at least two years older than the child.

A person commits rape of a child in the second degree when the person has sexual intercourse with a child who is at least 12 years old, but less than 14 years old and not married to the perpetrator, and the perpetrator is at least three years older than the child.

Rape of a child in the first degree and rape of a child in the second degree are not included in the "two strikes" list of sex offenses.

**Summary:** Rape of a child in the first degree and rape of a child in the second degree are added to the sex offenses listed in the "Two Strikes and You're Out" law, which classifies a person as a "persistent offender" when the person is twice convicted, on two separate occasions, of any of the sex offenses listed. In addition, some age restrictions apply when counting rape of a child in the first degree and second degree as strikes. An offender convicted of rape of a child in the first degree has to be at least 16 years old when the offender committed the offense and an offender convicted of rape of a child in the second degree has to be at least 18 years old.

**Votes on Final Passage:**

House	95	0
Senate	49	0

**Effective:** July 27, 1997

**HB 1187**

C 60 L 97

Contracting with associate development organizations.

By Representatives Alexander, Van Luven, McMorris, DeBolt, Morris, Veloria, Sheldon, Pennington, Sump and Hatfield.

House Committee on Trade & Economic Development  
Senate Committee on Commerce & Labor

**Background:** An associate development organization (ADO) is a local economic development nonprofit corporation that consists of representatives of community and economic interests, including, but not limited to, local governments, local chambers of commerce, private industry councils, port districts, labor groups, and institutions of higher education.

The purpose of the ADO is to identify key economic and community development problems, develop appropriate solutions, and mobilize broad support for recommended initiatives. The ADO then assumes the leadership role in the coordination of efficient delivery of services designed to implement the recommended initiatives. The 33 ADOs in the state operate on either a county-wide basis or consist of a consortium of two or more counties.

The Department of Community, Trade and Economic Development is the primary state agency charged with assisting communities or regional areas in their community and economic development efforts. The department may enter into contracts with ADOs to provide funding that ei-

ther supports or coordinates the delivery of community and economic development services in communities or regional areas. Local ADOs have used this funding for specific projects, creation of an economic development or action plan, and general support for the budget of the local ADO.

**Summary:** The Department of Community, Trade and Economic Development is required to contract with Associate Development Organizations or other local organizations for coordinated community and economic development services in communities and regional areas.

**Votes on Final Passage:**

House	95	0
Senate	44	0

**Effective:** July 27, 1997

**HB 1188**

C 50 L 97

Exempting Wyoming students admitted to the University of Washington's medical school from the tuition differential.

By Representatives Carlson, Mason, Radcliff, Kenney, Butler, O'Brien, Van Luven, Sheahan, Dunn, Dyer, Chopp and Murray.

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** The University of Washington has a program of regional medical education called the WAMI program. Through the program, the university permits some students from Alaska, Montana, and Idaho to enroll in the medical school. The program is underwritten by contracts that the university enters with participating states. A few of the students enrolled in the program receive a portion of their instruction at Washington State University.

Within their overall waiver caps, the University of Washington and Washington State University may waive all or a part of the nonresident portion of tuition for students participating in the WAMI program. Washington State University may further reduce tuition by the amount that the student pays to the University of Washington as a registration fee. Any additional costs of educating WAMI students must be paid by the students' home states.

**Summary:** The state of Wyoming is added to the WAMI program. The University of Washington and Washington State University may waive the nonresident tuition differential for students from Wyoming who are participating in the program.

**Votes on Final Passage:**

House	95	0
Senate	47	1

**Effective:** July 27, 1997

HB 1189

C 152 L 97

Making the moratorium on oil and gas exploration and production off the Washington coast permanent.

By Representatives K. Schmidt, Chandler, DeBolt, Zellinsky, Buck, McMorris, Mastin, Carlson, Radcliff, Talcott, D. Schmidt, Carrell, Caines, Ballasiotes, Huff, Robertson, Hickel, Mitchell, Wolfe, Chopp, Kessler, H. Sommers, Cody, Murray, Doumit, Gardner, Regala, Morris, Wensman, Butler, Hatfield, Fisher, Ogden, Wood, Keiser, Conway, Kenney, Anderson, O'Brien, Cooper, Romero, Poulsen, Mason and Blalock.

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** Legislation enacted in 1989 established a policy temporarily prohibiting the leasing of Washington's tidal or submerged lands for coastal oil and gas exploration, development, and production. In 1996, the Legislature extended the prohibition until July 1, 2000. The 1989 legislation also required a study identifying the positive and negative impacts of leasing state-owned lands for oil and gas development. The study was due in 1994, but was never initiated.

**Summary:** The prohibition on coastal oil and gas exploration, development, and production in Washington's tidal or submerged lands is made permanent. The statute requiring the 1994 study identifying the impacts of leasing state-owned lands for oil and gas development is repealed.

**Votes on Final Passage:**

House	98	0
Senate	47	1

**Effective:** July 27, 1997

**SHB 1190**

PARTIAL VETO

C 372 L 97

Requiring preliminary compliance reviews of performance audits and consideration of performance audit recommendations in budget preparation.

By House Committee on Government Administration (originally sponsored by Representatives Backlund, Huff, Lambert, McMorris, Caines, Honeyford, Sherstad, McDonald, D. Schmidt and Wensman).

House Committee on Government Administration  
Senate Committee on Ways & Means

**Background:** In 1996, the Legislature enacted comprehensive legislation pertaining to performance audits. This legislation requires the Joint Legislative Audit and Review Committee (JLARC) to develop a performance audit work

plan in each odd-numbered year for the subsequent 16-24 months. This plan is to be developed beginning in 1997.

When the legislative auditor has completed a performance audit authorized in the work plan, the preliminary performance audit report is transmitted to the affected state agency or local government and the Office of Financial Management (OFM) for comment. The preliminary performance audit report must also be forwarded to the JLARC review, comments, and final recommendations. Any comments by the audited entity, the OFM, and the JLARC are incorporated into the final performance audit report. The final performance audit report is sent to the audited entity, the OFM, the leadership of the House and Senate, and the appropriate standing committees of the House and Senate. The results of the final report must be published, and the report must be made available to the public.

No later than nine months after the final performance audit has been transmitted to the appropriate legislative committees, the JLARC may issue a preliminary compliance report on the agency's or local government's compliance with the final performance audit report recommendations. The preliminary compliance report must be prepared in consultation with the standing committees. The agency or local government may attach its comments to the joint committee's preliminary compliance report as a separate addendum. There is no requirement for the JLARC to prepare a preliminary compliance report.

If a preliminary compliance report is issued by the JLARC, it may hold a public hearing and receive public testimony regarding the findings and recommendations contained within the preliminary compliance report. The JLARC must issue any final compliance report within four weeks after the public hearing or hearings. There is no requirement for the JLARC to hold a public hearing if it issues a preliminary compliance report.

The Governor vetoed a section of the 1996 legislation that would have required agencies to consider performance audit findings in the budget estimates that they submit to the Governor for budget preparation.

**Summary:** An agency or local government that has undergone a performance audit must produce a preliminary compliance report on its compliance with the final performance audit recommendations. This report must be submitted to the JLARC. The agency or local government must provide JLARC with periodic updates to the preliminary compliance report if requested until JLARC determines that the agency or local government has complied with the final performance audit recommendations to its satisfaction. JLARC no longer produces preliminary compliance reports.

JLARC may hold public hearings and receive public testimony if the agency or local government is not making satisfactory progress in achieving compliance. JLARC may issue a final compliance report after the agency or lo-

cal government has satisfactorily complied with the final audit recommendations.

Agencies must consider any alternatives to reduce costs or improve service delivery identified in a JLARC performance audit in the budget estimates submitted to the Governor for the preparation of the budget.

**Votes on Final Passage:**

House	81	16	
Senate	44	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed section 2, which required state agencies and local governments to prepare preliminary compliance reports following a performance audit rather than JLARC. The authority for JLARC to require periodic updates to preliminary compliance reports from state agencies and local governments was also vetoed.

**VETO MESSAGE ON HB 1190-S**

May 15, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1190 entitled:

"AN ACT Relating to performance audits;"

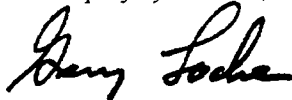
Section 1 of this bill requires state agencies to provide in their biennial budget submittals information about the disposition of performance audit findings. This information is valuable to the budgeting process; including it with the budget documentation provided by agencies will help strengthen the linkage between performance auditing and budgeting.

Section 2, however, would place an open-ended obligation on all state agencies and local governments to provide periodic reports on their compliance with performance audit findings. Current law and practices of the Joint Legislative Audit and Review Committee already provide adequately for tracking and reporting on state agency and local government responses to significant audit recommendations. I, therefore, see no need to place additional reporting requirements on agencies and local governments.

For this reason, I have vetoed section 2 of Substitute House Bill No. 1190.

With the exception of section 2, Substitute House Bill No. 1190 is approved.

Respectfully submitted,



Gary Locke  
Governor

**2SHB 1191**

C 412 L 97

Providing for review of mandated health insurance benefits.

By House Committee on Appropriations (originally sponsored by Representatives Backlund, Dyer, Skinner and Sherstad).

House Committee on Health Care  
House Committee on Appropriations  
Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means

**Background:** Mandated benefits (MBs) require that health carriers cover or offer to cover a specific health care service or reimburse specific types of health care providers. MBs were adopted after full benefits packages, including doctors, hospitals, and drugs became common insurance products. These full benefits packages were developed primarily through collective bargaining agreements between employers and employees. MBs do not represent a core benefits package, but rather a peripheral set of specific covered services and providers. Washington has 17 mandated benefit laws. Ten of those laws affect group coverage, while seven affect both individual and group insurance products.

Research on MBs has been controversial and inconclusive. Findings addressing impact on enrollee health status has been spotty.

In 1984, an MB review statute was adopted in Washington. Although this law may have discouraged some MB proposals, it has never been used as written. Further, 11 of the 17 mandates have been enacted since the law's adoption. The current process does not include a precise definition of mandated benefits and sets forth no clear time line for review. The American Legislative Exchange Council has prepared a model act under which proposed mandated benefits could be reviewed. This measure is based on that model.

**Summary:** A mandated benefit is defined as coverage or offerings required by law to be provided by a health carrier to cover a specific health care service or condition, or to contract, pay, or reimburse specific categories of health care providers for specific services. The Medical Assistance Program, Basic Health Plan, public employee coverage, and scope of practice issues are excluded from this definition.

Persons or organizations seeking to establish a mandated benefit must, at least 90 days prior to a regular legislative session, submit a mandated benefit proposal to the appropriate committees of the Legislature; those committees are to assess the proposed benefit in terms of its social impact, its financial impact, and its impact on health care service efficacy.

If such a request is made, the Department of Health (DOH) must report to the Legislature on the appropriate-

# HB 1196

ness of adoption no later than 30 days prior to the legislative session during which the proposal is to be considered.

The DOH may modify these criteria to reflect new relevant information and may seek appropriate advice from interested parties.

The Health Care Authority must review the proposal for reasonableness and accuracy.

### Votes on Final Passage:

House	95	1	
Senate	30	17	(Senate amended)
House	62	29	(House concurred)

Effective: July 27, 1997

## HB 1196

C 124 L 97

Regulating registration of charitable trusts.

By Representatives McDonald, Costa, Sheahan, Sterk and Skinner; by request of Secretary of State.

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** Generally, trusts that are set up for charitable purposes are required to register with the Office of the Secretary of State.

Charitable trusts are those held for a public charitable purpose and those that are subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, education, or similar purposes. The attorney general has authority to investigate violations of and to secure compliance with the charitable trust law. Any individual who is holding assets or property in the state for charitable purposes must register within two months of receiving possession or control of the trust. Every trustee also must file an annual report. All information filed with the Office of the Secretary of State is public. However, if any portion of the trust is for other than charitable purposes, the trust instrument is not to be disclosed.

In some cases a charitable trust may be created as a "remainder interest" following a life estate in the trust. That is, property that is the subject of the trust is given first to a person for use during his or her lifetime. Only after the death of the person and the end of the life estate does the charitable trust begin. However, the law requires that the instrument creating the trust must be filed within two months of the beginning of the life estate.

The Secretary of State is directed to "investigate" a variety of sources to obtain information necessary for the creation and maintenance of a register of charitable trusts. The custodians of court records pertaining to probate and trusts matters and public officials receiving applications for tax exempt status are directed to furnish the Secretary of State with information relating to charitable trusts.

Some entities that are required to register under the charitable trust law may also have to register under the Charitable Solicitations Act. That act generally regulates practices and entities involved in fund-raising for charitable purposes.

**Summary:** Several changes are made to the charitable trust law. These changes generally reduce the number of entities that must register and reduce the amount of reporting required.

The Secretary of State is authorized to set a threshold value for a charitable trust's income producing assets. A charitable trust with assets above that value will be required to register if all or part of the principal or income of the trust can or must currently be expended for charitable purposes and if the trust is authorized to distribute its assets over a period greater than one year.

A remainder trust need register only when all preceding life estates have ended.

The time for initial registration is increased to four months following the acquisition of possession or control of the assets of a charitable trust. The general annual reporting requirement is eliminated, and trustees are required to file each "publicly available" tax form filed with the federal government. The Secretary of State may provide an exemption from reporting or an alternative reporting requirement for charitable trusts that are not required to file a federal tax return.

The Secretary of State must withhold from public inspection any trust which is established for several or mixed purposes if any one of the purposes is not charitable.

The requirements that the secretary of state investigate various sources for information, that custodians of court records report information on probate and trusts, and that public officials report information on tax exemption applications are all repealed.

### Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 27, 1997

## HB 1198

C 153 L 97

Regulating motor vehicle dealer practices.

By Representatives Mitchell, Fisher, Robertson, Johnson, Costa and L. Thomas.

House Committee on Transportation Policy & Budget  
Senate Committee on Commerce & Labor  
Senate Committee on Transportation

**Background:** If a car buyer makes a purchase offer to a dealer, the dealer must accept or reject the offer within 48 hours (excluding Saturdays, Sundays and holidays), and is prohibited from further negotiating with the buyer.

Dealers are also prohibited from renegotiating the trade-in allowance granted to a buyer, except under limited circumstances: (1) only if the title to the trade-in car has been "branded" (e.g., "rebuilt"); and (2) only if there is substantial physical damage or a mechanical defect that the dealer could not have discovered at the time of accepting the purchase offer.

Upon request of a prospective purchaser, dealers are required to furnish the name and address of the former owner of a used vehicle that is being offered for sale.

Dealers are prohibited from issuing more than one temporary permit for a vehicle, even if the permit is due to expire before the dealer can obtain the vehicle title.

**Summary:** Car dealers have three calendar days (excluding Saturdays, Sundays and holidays) to accept or reject a purchase offer, instead of 48 hours. This allows the dealer an additional day to obtain financing for a prospective buyer.

A dealer may renegotiate the trade-in value on a car under any of these circumstances: (1) the title to the trade-in car has been "branded" (e.g., "rebuilt"); (2) there is substantial physical damage or a mechanical defect that the dealer could not have discovered at the time of accepting the purchase offer; or (3) the dealer discovers large discrepancies in the mileage occurring between the time the dealer appraised the car for trade-in value and the time the car was surrendered to the dealer. A large discrepancy is considered to be 500 miles or more. A "discrepancy" means the difference between the mileage reflected on the vehicle's odometer and the stated mileage on the odometer statement, or the difference between the stated mileage on the odometer statement and the actual miles on the vehicle.

Dealers are no longer required to furnish the name and address of the previous owner of a used car unless the car was owned by a business or governmental entity.

Dealers are permitted to issue a second 45-day temporary permit under the following conditions: (1) the lienholder (bank) fails to deliver the vehicle title to the dealer within the required time period; (2) the dealer has paid off the underlying lienholder; and (3) the dealer has proof that the lien was paid within two working days after the sales contract was executed by all parties.

**Votes on Final Passage:**

House	95	0
Senate	46	0

**Effective:** July 27, 1997

## SHB 1200

C 98 L 97

Revising the code of ethics for municipal officers.

By House Committee on Government Administration (originally sponsored by Representatives Buck, D. Schmidt and Dunn).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Municipal officers are prohibited by the municipal code of ethics from having a beneficial interest in a contract, either directly or indirectly, which is made by, through, or under the supervision of that officer. A municipal officer is any elected or appointed officer of a unit of local government and includes any deputies and assistants of that officer.

A number of exemptions to this prohibition have been established, and some of these exemptions pertain to the hiring of a spouse of a municipal officer. All of these particular spousal exemptions apply only to school districts. There are no spousal exemptions from the prohibition against a municipal officer having a beneficial interest in a contract for any other type of municipality.

**Summary:** A public hospital district may employ the spouse of a public hospital district commissioner without a violation of the municipal code of ethics occurring if (1) the spouse was employed by the district before the initial election of the commissioner; (2) the terms of the contract are commensurate with provisions for similar employees; (3) the commissioner's interest is disclosed in the public record prior to the letting or continuation of the contract; and (4) the commissioner does not vote on the authorization, approval, or ratification of the contract or any of its conditions.

**Votes on Final Passage:**

House	98	0
Senate	47	0

**Effective:** July 27, 1997

## 2SHB 1201

C 367 L 97

Providing for reauthorization of assistance to areas impacted by the rural natural resources crisis.

By House Committee on Appropriations (originally sponsored by Representatives Buck, Johnson, Sheldon, Blalock, Regala, Linville, Hatfield, Kessler, Tokuda, Anderson, Morris, Zellinsky, Dunn, Conway, Doumit, Ogden, Grant, Mastin, Butler and Murray).

House Committee on Trade & Economic Development  
House Committee on Appropriations  
Senate Committee on Commerce & Labor

**Background:** Washington's natural resource-based communities have been impacted by reductions in timber and salmon harvests. In 1990, Washington's timber supply was dramatically reduced due to federal actions limiting harvest on U.S. Forest Service lands. This severely im-

ected the state's timber industry, resulting in the loss of approximately 20,000 jobs and economic dislocation throughout numerous rural communities over the past six years. In response to the timber harvest reductions, Governor Gardner established the Timber Task Force to coordinate state assistance to impacted areas.

In April 1994, the U.S. Department of Commerce closed the ocean salmon fishing season. The following May, Governor Lowry proclaimed a state emergency in those affected counties affected by the closure and requested federal assistance. The Timber Task Force began coordinating the delivery of federal disaster-relief funds to areas affected by the closure of the salmon fishing season. The Timber Task Force also assumed responsibility for identifying state funds needed to complement the federal effort.

In 1995, the Legislature reauthorized the timber assistance programs and expanded the focus of the state's targeted assistance to include workers affected by the closure of the salmon fishing season. Other changes made to reflect the expanded focus were that (1) the Timber Task Force was renamed the Rural Community Assistance Task Force; (2) the Timber Recover Coordinator was renamed the Rural Community Assistance Coordinator; (3) a Rural Natural Resource Impact Area was defined to include both nonmetropolitan and nonurbanized areas of metropolitan counties; (4) the Rural Community Assistance Task Force was expanded to include the Washington State Department of Agriculture; and (5) the Washington State Rural Development Council was directed to provide input on assistance efforts.

Extended Unemployment Insurance Benefits. Dislocated workers who have exhausted their regular unemployment benefits and who are participating in retraining, receive an additional benefit eligibility period. The regular and additional benefits can not exceed two years. An additional 13 weeks of benefits are provided for individuals who are participating in a training program that is expected to last one year or longer. To be eligible for the additional unemployment benefits the dislocated worker must (1) reside in or be employed in a rural natural resource impact area, or (2) have earned wages for at least 680 hours in either the forest products industry or the fishing industry. The period for new claims under the extended unemployment insurance benefits program for dislocated workers is scheduled to end July 1, 1997.

Supplemental Enrollment/Tuition Waivers. Participating community, technical, or upper division colleges receive supplemental enrollment allocations and funds to support direct costs for dislocated workers from rural natural resource impact areas. Tuition waivers are provided to a limited number of dislocated workers or spouses for full-time study for up to two years.

Infrastructure Financing. The Department of Community, Trade and Economic Development must give preference to infrastructure/public works projects in rural natural resource impact areas funded through the Commu-

nity Economic Revitalization Board (CERB) and Timber Public Works Trust Fund. At least 50 percent of the funds are targeted to those areas.

Local Economic Development. Local governments and economic development organizations in rural natural resource impact areas are provided with technical assistance in developing and implementing economic development strategies through various state agencies.

Business Assistance Programs. To assist communities in rural natural resource areas the Department of Community, Trade and Economic Development must give preference to loans made to individuals and firms that create or retain jobs in natural resource impact areas under the Washington Development Loan Fund.

The department must also provide technical assistance through the Small Business Export Finance Assistance Program to businesses located in rural natural resource areas and provide entrepreneurial training to dislocated workers in rural natural resource impact areas. State agencies must expedite the issuance of permits necessary for economic development projects in rural natural resource impact areas.

Employment Opportunities. The Environmental Restoration and Enhancement program provides employment opportunities to dislocated workers in rural natural resource areas.

The Rural Community Assistance Task Force and Coordinator are scheduled to terminate on June 30, 1997. The associated rural natural resource impact area assistance programs are subject to the sunset review process and are scheduled to terminate on June 30, 1998.

**Summary:** The Rural Community Assistance Team, the Rural Community Assistance Coordinator, and the various state programs designed to assist dislocated workers and communities in rural natural resource impact areas and dislocated timber and salmon workers on a statewide basis are revised and extended.

The definitions for the purposes of the rural natural resource impact area are revised to (a) include a category for nonmetropolitan counties with a population under 40,000, based on 1990 U.S. Census data; (b) include portions of rural areas of some metropolitan counties; and (c) include a person in the finfish industry as a salmon worker.

Extended Unemployment Insurance Benefits. Dislocated natural resource workers eligibility for additional unemployment benefits based on retraining is modified. To be eligible, a dislocated worker must: (1) reside in a county with an unemployment rate for 1996 that is at least 20 percent or more above the state average and at least 15 percent above the county unemployment rate in 1988. The county of residence must have either a lumber and woods products employment or a commercial salmon fishing employment quotient that is at least three times the state average and must have experienced actual job losses in those industries of 100 jobs or more, or job loss of 50 or



more, or job loss of 50 or more in counties with a population of less than 40,000; (2) have earned wages for at least 1,000 hours; and (3) be classified as a "displaced worker" by the Employment Security Department.

To receive extended unemployment insurance benefits, a dislocated worker in the forest products or fishing industry is required to have: (1) earned wages for at least 1,000 hours; (2) received notification of job termination or lay-off; and (3) received a determination by the Employment Security Department that the worker is unlikely to return to the worker's principal occupation or previous industry due to diminishing demand in the labor market.

The Employment Security Department is required to redetermine the list of eligible and ineligible counties based on a comparison of 1988 and 1997 employment rates by April 1, 1998. Any changes in county eligibility status apply only to new claims for regular unemployment insurance effective after April 1, 1998.

The period for new claims under the extended unemployment insurance benefits program for dislocated workers is extended from July 1, 1997, to July 1, 2000.

Supplemental Enrollment/Tuition Waivers. The requirement for tuition waivers is revised. The dislocated worker or spouse may receive a waiver of all or part of tuition, to a maximum of 90 quarter hours or 60 semester hours within four years. The participant must enroll in a minimum of five credit hours per quarter or three credit hours per semester.

Infrastructure Financing. The Community Economic Revitalization Board (CERB) program is revised to (a) increase the amount of funds designated to distressed counties or rural natural resource impact areas from 50 percent to 75 percent of the allocation per biennium; and (b) extend the use of CERB funds in distressed counties and rural natural resource areas from June 30, 1997, to June 30, 2000.

The Public Works Trust Fund Rural Natural Resource program expires as previously scheduled on June 30, 1997.

Local Economic Development. The Department of Community, Trade, and Economic Development's assistance to communities impacted by reduction in timber harvests is expanded to include salmon fishing. The department must use existing technical and financial assistance resources to aid communities in developing high priority community economic development projects.

The department's community assistance program is terminated.

Sunset Review Extensions—Programs. The sunset review date for rural natural resource impact area programs is extended from June 30, 1998, to June 30, 2000. The repeal date of the programs is extended from June 30, 1999, to June 30, 2001.

The extension of the sunset review date and associated repealer applies to: (a) the Rural Community Assistance Team and coordinator; (b) the extended unemployment insurance benefits program; (c) the supplemental enroll-

ment/tuition waiver program; (d) the Department of Community, Trade and Economic Development's infrastructure financing programs and technical assistance to local communities; (e) the Department of Community, Trade and Economic Development's business assistance programs; (f) the Employment Security Department's training and services programs for rural natural resource impact areas and employment opportunities in environmental enhancement and restoration program; and (g) the state agency streamlined approval process for economic development projects in rural natural resource impact areas.

**Votes on Final Passage:**

House	76	22	
Senate	49	0	(Senate amended)
House	66	31	(House concurred)

**Effective:** July 1, 1997

**HB 1202**

C 222 L 97

Adopting the recommendations of the task force examining high school credit equivalencies.

By Representatives Quall, Dickerson, Poulsen, Smith, O'Brien, Costa, Ogden and Mason.

House Committee on Education  
Senate Committee on Education

**Background:** The Legislature has directed the State Board of Education (SBE) to establish minimum high school graduation requirements or equivalencies. The SBE originally defined one high school credit as 150 hours of planned in-school instruction, or five quarter or three semester hours of college or university level course work.

A high school student will normally earn six high school credits annually. A high school student attending college full-time would earn nine high school credits annually.

In 1993, the SBE modified the definition of high school credit equivalencies. Under the new definition, .75 high school credits is equal to five quarter or three semester hours of college or university level course work. Under this new definition, a high school student attending college full-time will earn 6.75 high school credits annually. The SBE has delayed implementing the new conversion rate until September 1997.

In 1994, the Legislature directed the SBE and the Higher Education Coordinating Board to convene a task force on curriculum issues, and to develop recommendations regarding credit equivalencies by December 1994. The task force recommended unanimously that the SBE maintain the definition that one high school credit is equal to five quarter or three semester hours of college or university level course work.

## SHB 1219

**Summary:** The relationship of high school credits to college or university credits is defined. One high school credit equals five quarter or three semester hours at the college or university level.

The obsolete requirement for the task force to report recommendations on credit equivalencies by December 1994 is deleted.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** July 27, 1997

## SHB 1219

C 154 L 97

Extending a tax exemption for prepayments for health care services provided under Title XVIII (medicare) of the social security act.

By Representatives Pennington, Appelwick, B. Thomas, H. Sommers, Mulliken, Carrell, Morris, Mielke, Backlund, O'Brien, Zellinsky, Thompson, Kastama and Mason.

House Committee on Finance  
Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means

**Background:** A health maintenance organization (HMO) is an organization that provides comprehensive health care to enrolled participants through a group medical practice and charges per capita prepayments. Group Health Cooperative is an example of an HMO. A health care service contractor (HCSC) is an organization that provides health care in exchange for prepayments but is organized differently than HMOs or insurance companies. Blue Cross affiliates are examples of HCSCs.

The 1993 Health Services Act imposed a 2 percent tax on premiums and prepayments received by HMOs and HCSCs. Revenue from this tax is deposited in the health services account, along with revenue from other tax increases enacted in 1993, including tobacco tax increases, hospital tax increases, and some alcohol tax increases. The health services account is appropriated for subsidized enrollment in the state's Basic Health Plan, public health system improvements, and other health programs. Before 1993, HMOs and HCSCs were subject to business and occupation tax on a portion of their gross receipts. Health insurance companies that are not HMOs or HCSCs are subject to a 2 percent tax on premiums, which is deposited in the general fund and has been in effect since 1891.

The federal government makes prepayments to HMOs and HCSCs for Medicare benefits provided to patients. These premiums are exempt from the premiums and prepayments tax. This exemption expires June 30, 1997.

The 1993 Health Services Act called for significant changes in delivery and payment of health services.

Among its many changes, the act required state officials to negotiate with the federal government to obtain "waivers" or changes in the amount and manner in which the federal government pays for Medicare, Medicaid, and other federally-funded health services. In 1995, portions of the act were repealed and the remainder substantially revised. The state is no longer seeking comprehensive changes in the amount and manner in which the federal government pays for Medicare, Medicaid, and other federally-funded health services.

**Summary:** The exemption for Medicare prepayments under the health care premiums and prepayments tax is made permanent.

**Votes on Final Passage:**

House	95	1
Senate	47	0

**Effective:** July 1, 1997

## HB 1232

C 155 L 97

Changing the SR 2 spur to SR 41.

By Representatives Sump, Sheldon, Wood, Morris, Quall, K. Schmidt, Honeyford, Talcott, Hickel, Delvin, McMorris, Wensman and Doumit.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** State law prescribes a numerical designation for each state highway and describes each highway route.

State Route (SR) 2 crosses the state from west to east and enters Idaho at Newport. At Newport the route takes two courses, easterly to connect with Idaho SR 2 at the border, as well as southerly on the border for four-tenths of a mile to connect with Idaho SR 41. The southerly route is also designated SR 2.

**Summary:** A four-tenths mile portion of existing State Route 2 in Newport, which connects with Idaho SR 41, is renamed as a new state highway, State Route 41.

**Votes on Final Passage:**

House	95	0
Senate	48	0

**Effective:** July 27, 1997

## SHB 1234

C 307 L 97

Modifying the size of the state advisory board of plumbers.

By House Committee on Commerce & Labor (originally sponsored by Representatives Cairnes, Mason, Clements,

Mulliken, Thompson, McMorris, Reams, Honeyford, Sterk, Kenney, Blalock, Cody, Keiser, Conway, Cooper, O'Brien, Tokuda, Dunshee, Wood, Fisher and Kastama).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The state Advisory Board of Plumbers was created in 1973. The board has three members; a journeyman plumber, a person engaged in the plumbing business, and a member of the public with knowledge of the business and trade of plumbing. The Governor appoints the members of the board for three-year staggered terms.

The board advises the director of the Department of Labor and Industries on rules regulating the trade of plumbing and on criteria for examinations of persons who wish to engage in the plumbing trade. The board may also conduct hearings on the revocation of a certificate of competency.

**Summary:** The membership of the Advisory Board of Plumbers is board increased to five members. Added to the board are one additional journeyman and one additional member conducting a plumbing business. Expiration dates are specified for each member. The term of one journeyman member expires July 1, 1998, and the term of the other journeyman member expires July 1, 2000. The term of one member conducting a plumbing business expires July 1, 1999, and the term of the other member conducting a plumbing business expires July 1, 2000. The term of the current public member expires July 1, 1997. After expirations, appointments will continue to be for three year terms.

**Votes on Final Passage:**

House	90	4	
House	92	3	(House reconsidered)
Senate	47	0	

**Effective:** July 27, 1997

## SHB 1235

C 373 L 97

Requiring state agency personal service contracts to specify that the state owns the data generated under the contracts.

By House Committee on Appropriations (originally sponsored by Representatives Ogden, McMorris, H. Sommers, Carlson, Wolfe, O'Brien, Dunshee, Kenney, Dickerson, Cole, Mason and Robertson; by request of Joint Legislative Audit & Review Committee).

House Committee on Appropriations  
Senate Committee on Government Operations

**Background:** When outside expertise is needed, a state agency may contract with a private consultant to conduct studies and to make reports through a state-funded personal services contract. The contract is reviewed and

approved by the Office of Financial Management. In certain instances there has been confusion or disagreement between the state agency and the consultant about what information the personal services contract requires the consultant to provide. At issue is whether the consultant, as a condition of the contract, must provide the state agency with not only the final report but also the background information used to develop it. This may include information such as technical documentation, computer models, assumptions and other data that support the findings, conclusions or recommendations found in the study or report. Without possession or access to this supporting information, findings, conclusions, and recommendations cannot be validated by the state agency or an independent party.

**Summary:** A state agency may not enter into a personal services contract that permits a consultant to charge additional fees for access to supporting data under the contract. Any data generated by a consultant while performing the requirements of the contract must be provided to the agency, the Joint Legislative Audit and Review Committee, and the State Auditor. If the Joint Legislative Audit and Review Committee and the State Auditor are conducting audits and require access to supporting data from studies and reports, the consultant is prohibited from charging an additional fee. Data is defined as information supporting the findings, conclusions, and recommendations of the consultant's studies and reports.

**Votes on Final Passage:**

House	96	0	
Senate	45	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

## HB 1241

C 11 L 97

Limiting political activities of citizen members of the legislative ethics board.

By Representatives Pennington, Appelwick, Carlson, D. Schmidt, Wensman, Linville and Mason; by request of Legislative Ethics Board.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The Legislative Ethics Board was created in 1994 and consists of five citizen members, two senators, and two representatives. The board issues advisory opinions and hears complaints with respect to legislators, legislative employees, and ethics in public service.

The citizen members of the Legislative Ethics Board are prohibited from holding or campaigning for partisan elective office or full-time nonpartisan office; serving as an officer of a political party or a political committee; allowing his or her name to be used, or making contribu-

tions, in support of or in opposition to any state candidate or ballot measure; or lobbying the Legislature with the exception of a member appearing before a legislative committee on matters pertaining to the board. A citizen member of the board may serve as a precinct committee person.

A citizen member of the Legislative Ethics Board is not prohibited from making contributions or allowing his or her name to be used in connection with state legislative races, nor is a citizen member of the board prohibited from campaigning for a seat in the state Legislature within two years of serving on the board, against an incumbent who was a respondent in a complaint before the board.

**Summary:** Citizen members of the Legislative Ethics Board are prohibited from: holding or campaigning for partisan elective office or any full-time nonpartisan office; serving as an officer of a political party or political committee; allowing his or her name to be used or making contributions in support of, or opposition to, any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or lobbying the Legislature under circumstances that are not exempt from lobbyist registration and reporting. Citizen members of the Legislative Ethics Board may serve as a precinct committee person.

In addition, citizen members of the Legislative Ethics Board may not hold or campaign for a seat in the state Legislature within two years of serving on the board if a citizen member opposes an incumbent who has been the respondent of a complaint before the Board.

The prohibition of a citizen member of the Legislative Ethics Board allowing his or her name to be used, or making contributions in support of, or in opposition to, any state candidate or state ballot measure is removed.

**Votes on Final Passage:**

House 96 0  
Senate 47 1

**Effective:** July 27, 1997

**SHB 1249**  
**PARTIAL VETO**  
C 51 L 97

Streamlining registration and licensing of businesses.

By House Committee on Government Administration (originally sponsored by Representatives Dunn, Costa, Sheahan, Sterk, Lantz, Kenney, Lambert, Skinner, Gardner, D. Schmidt, D. Sommers, Ogden, O'Brien, Dunshee, B. Thomas, Wensman, Mason and Kessler, by request of Secretary of State).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The Business License Center, within the Department of Licensing, provides a single location where businesses may apply for a master license incorporating separate licenses issued by different state agencies. The Business License Center is required to keep and distribute information about the separate licenses that may be incorporated into a master license.

Documents relating to corporations, including articles of incorporation, are filed with the Office of the Secretary of State.

The Department of Labor and Industries regulates and licenses a number of occupations, including electricians, and regulates and inspects a number of activities, such as the installation of mobile homes.

The Department of Employment Security administers the state's unemployment compensation program and provides employment and training services.

The Department of Revenue assesses and collects various state taxes and adopts rules relating to those taxes.

**Summary:** The director of the Department of Licensing is authorized to contract with the federal Internal Revenue Service and other appropriate federal agencies to issue conditional federal employer identification numbers and other federal credentials or documents in conjunction with any application for a master business license. If authorized by the contract with the Internal Revenue Service, the director of the Department of Licensing may contract with different state agencies or local governments that participate in the master business licensing program to issue these conditional federal employer identification numbers, credentials, and documents in conjunction with applications for master business licenses.

The Secretary of State, director of the Department of Labor and Industries, commissioner of the Department of Employment Security, and director of the Department of Revenue are also authorized to contract with the federal Internal Revenue Service and other appropriate federal agencies to issue conditional federal employer identification numbers, credentials, and documents in conjunction with applications for master business licenses.

**Votes on Final Passage:**

House 94 0  
Senate 48 0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the emergency clause.

**VETO MESSAGE ON HB 1249-S**

*April 16, 1997*

*To the Honorable Speaker and Members,*

*The House of Representatives of the State of Washington*

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to section 7, Substitute House Bill No. 1249 entitled:*

"AN ACT Relating to state agencies issuing federal employer identification numbers:"

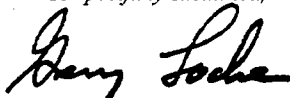
*Substitute House Bill No. 1249 simplifies the licensing and registration process for businesses operating in the state. It allows the state to contract with the Internal Revenue Service and other federal agencies, so that businesses will be able to obtain their federal employer identification numbers ("FEIN") and other federal credentials through the state in one step, as part of the state licensing process, rather than applying separately to the state and each federal agency.*

*The new process will reduce paperwork for new businesses and will make FEINs immediately available, allowing new businesses to get started earlier. Our Business License Center has been operating well and I support taking the next step to increase efficiency and add convenience for businesses as they seek a master license to operate in our state.*

*This legislation includes an emergency clause in section 7 that would establish July 1, 1997 as the effective date of the bill. This legislation is not necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.*

*For this reason, I have vetoed section 7 of Substitute House Bill No. 1249. With the exception of section 7, Substitute House Bill No. 1249 is approved.*

*Respectfully submitted,*



Gary Locke  
Governor

## SHB 1251

C 12 L 97

Clarifying naming conventions for corporations and units of government.

By House Committee on Government Administration (originally sponsored by Representatives Parlette, Costa, Sheahan, Sterk, Lantz, Kenney, Skinner, Lambert, Gardner, D. Schmidt and Wensman; by request of Secretary of State).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** A number of different types of artificial entities may be created in the state, including for-profit corporations and nonprofit corporations. Papers to create or incorporate these artificial entities are filed with the Office of the Secretary of State. A foreign, or out-of-state, corporation transacting business in this state must file an application with the Office of the Secretary of State for a certificate of authority.

Each corporation doing business in the state must file the name and address of its registered agent with the Office of the Secretary of State.

Many statutes relating to different types of artificial entities that may be created in this state include provisions prohibiting the use of names for an artificial entity that are not distinguishable from the names of other artificial entities.

The Secretary of State is authorized under the Washington Business Corporation Act to provide for the administrative dissolution of a corporation on a variety of grounds, including the failure to pay license fees, register its agent, or file an annual report.

**Summary:** Any unit of local government, the state, or any state agency or department may apply to the Secretary of State to administratively dissolve or revoke the certificate of authority for any corporation using a name that is not distinguishable from the name of the applicant. If the name is not distinguishable, the secretary of state institutes proceedings to administratively dissolve the corporation or revoke its certificate of authority.

Factors are established to determine if names are not distinguishable. Examples are provided of similar names that are not distinguishable and similar names that are distinguishable.

If the corporation named in the application was incorporated or certified before the government entity was formed, these provisions only apply if the government entity provides a certified copy of a final court judgement determining that it has a property right to the name which is superior to that of the corporation.

These provisions are referenced in laws relating to non-profit corporations, mutual corporations, corporations sole, fraternal societies, agricultural processing and marketing associations, granges, and cooperative associations.

### Votes on Final Passage:

House	95	0
Senate	46	0

Effective: July 27, 1997

## SHB 1257

C 368 L 97

Providing tax exemptions and credits for coal-fired thermal electric generating facilities placed in operation before July 1, 1975.

By House Committee on Finance (originally sponsored by Representatives DeBolt, Alexander, Pennington, Sheldon, Kessler, Poulsen, McMorris, Mielke, Van Luven, Grant, Crouse, Mastin, Doumit and Hatfield).

House Committee on Energy & Utilities  
House Committee on Finance  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** The Centralia Steam Plant and adjacent coal mine are located in Lewis County approximately five miles northeast of Centralia. PacifiCorp operates the steam plant and owns the largest share, 47.5 percent. Other owners include Washington Water Power (15.0 percent), Seattle City Light, Tacoma Public Utilities, and Snohomish County Public Utility District (each with 8.0 percent), Puget Power (7.0 percent), Grays Harbor Public

Utility District (4.0 percent), and Portland General Electric (2.5 percent). The plant has two coal-fired units capable of producing 1,300 megawatts of electricity, enough to serve Seattle. The plant is the only thermal electric generating facility in the state that was placed in operation after December 31, 1969, and before July 1, 1975.

The steam plant is the sole customer of the Centralia Coal Mine, which is operated by the Centralia Mining Company, a wholly owned subsidiary of PacifiCorp.

Together, the steam plant and coal mine employ approximately 670 people.

**Air Pollution Control Requirements:** The Centralia Steam Plant is the largest single source of sulfur dioxide pollution in the state. Sulfur dioxide emissions have been blamed for impairing visibility of Mount Rainier.

In the early 1990s, the federal and state clean air acts were revised to require existing industrial pollution sources to meet "reasonably available control technology" standards.

In 1995, the Southwest Washington Air Pollution Control Authority issued an order requiring the Centralia Steam Plant to reduce sulfur dioxide emissions by 50 percent by the year 2001. When the order was issued, the National Park Service and the U.S. Forest Service argued greater emission reductions were needed. The Centralia plant owners then met with the National Park Service, U.S. Forest Service, U.S. Environmental Protection Agency, state Department of Ecology, Southwest Washington Air Pollution Control Agency, and the Puget Sound Air Pollution Control Agency to develop a recommendation on further emission reductions.

The final recommendation of this collaborative decision-making group was to require the Centralia Steam Plant to construct two scrubbers on site. The first scrubber would be in operation by December 31, 2001, and the second in operation by December 31, 2002, with an expected 90 percent reduction in sulfur dioxide emissions by the year 2003.

The two scrubbers reportedly are expected to cost approximately \$264 million (nominal value, estimated at \$172 million net present value).

Implementation of the agreement is contingent on the owners of the steam plant receiving certain tax exemptions.

**Sales and Use Taxes:** Sales tax is imposed on retail sales of most items of tangible personal property, and on some services. The state sales tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total tax rate is between 7 percent and 8.6 percent, depending on location. Sales tax is paid by the purchaser and collected by the seller.

Use tax is imposed on the use of an item in the state, when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item.

The use tax rate is equal to the sales tax rate. Use tax is paid directly to the Department of Revenue.

**Property Tax:** Unless a specific exemption is provided by law, annual state and local property taxes are imposed on all real and personal property in the state. Property is assessed at its true and fair market value, and the amount of tax owed is determined by multiplying the assessed value by the tax rate for each taxing district in which the property is located.

**Rate Regulation:** The Washington Utilities and Transportation Commission (WUTC) regulates the rates charged by investor-owned utilities. By statute, the rates must be just and reasonable. An investor-owned utility planning to change a rate must file a tariff schedule of proposed rates and charges with the WUTC.

**Summary:** By providing for certain tax exemptions, the Legislature intends to assist thermal electric generating facilities in updating their air pollution control equipment and abating pollution. The following tax exemptions, which apply only to thermal electric generating facilities placed in operation after December 31, 1969, and before July 1, 1975, are created.

**Sales and Use Tax Exemptions for Pollution Control Equipment:** Retail sales and use taxes will not apply to purchases of tangible personal property for, or to charges for labor and services performed in, the construction or installation of air pollution control facilities at a thermal electric generating facility. The exemptions apply to both state and local taxes, and may be claimed as of the effective date of the act. The exemptions do not apply to purchases of tangible personal property, labor, or services used for maintenance or repairs of pollution control equipment.

If a generating facility is abandoned before the year 2023, all or part of the sales and use tax exemptions granted on air pollution control equipment must be repaid to the state. If the facility is abandoned in the year 2003, the facility's owners must repay 100 percent of sales and use tax exemptions taken under the provisions of this act. If the facility is abandoned in the year 2004, the owners must repay 95 percent. For each additional year the facility operates, the repayment amount is reduced by 5 percent. If a facility is not abandoned until the year 2023 or later, the owners are not required to repay any sales or use tax exemptions.

If a company has claimed sales and use tax exemptions on the purchase of new air pollution control equipment and abandons the equipment before it has been fully depreciated, the company may not recover the remaining, un-depreciated value of the equipment through a tariff filing with the Utilities and Transportation Commission, as such a filing will be considered unjust and unreasonable.

**Sales and Use Tax Exemptions for Coal:** Beginning January 1, 1999, new sales and use tax provisions will apply to coal used at a thermal electric generating facility, provided facility owners demonstrate reasonable progress

in installing air pollution control facilities, and at least 70 percent of the coal used was from a coal mine in Lewis County or a contiguous county. If the facility owners file an application with the Department of Revenue, and the Department of Ecology verifies initial and continued progress in the construction of the air pollution control facilities, sales and use taxes on the coal will be paid into a newly created sulfur dioxide abatement account.

When sulfur dioxide emissions are reduced to no more than 10,000 tons during a previous consecutive 12-month period, facility owners will receive the funds in the account. Unless the failure is due to regulatory delays or defensive litigation, funds in the account will be transferred to the state general fund and to appropriate local governments if the facility fails to achieve the emission reduction by March 1, 2005. The sulfur dioxide abatement account will cease to exist after March 1, 2005.

A facility will forfeit these exemptions for at least one year if less than 70 percent of the coal consumed at the facility during the previous calendar year was from a coal mine in Lewis County or a contiguous county. In addition, if the facility emits excessive sulfur dioxide during a consecutive 12-month period, the facility will lose the exemptions until the facility emits no more than 10,000 tons of sulfur dioxide during a consecutive 12-month period.

**Property Tax Exemptions:** Air pollution control equipment is exempted from state and local property taxes.

**Displaced Workers Account:** If a thermal electric generating facility takes advantage of the sales and use tax exemptions granted by the act, but ceases operations prior to December 31, 2015, the facility must deposit money into the displaced workers account created by the act. The amount of money deposited into the account must equal the fair market value of one-fourth of the facility's total federal sulfur dioxide allowances. The Legislature will appropriate money in the account to compensate and retrain workers displaced by the facility's closure.

**Rule-making Authority:** The Department of Revenue and Department of Ecology may adopt rules to implement the act.

**Votes on Final Passage:**

House	96	0	
Senate	44	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** May 15, 1997

## SHB 1261

C 238 L 97

Requiring a ranged table in standard increments for the business and occupation tax small business credit.

By House Committee on Finance (originally sponsored by Representatives Mulliken, Pennington, Boldt and Wensman; by request of Department of Revenue).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state.

A small business credit is provided for the B&O tax. The maximum amount of credit is \$420 per year. The \$420 credit offsets any tax liability. The credit is phased out dollar-for-dollar by the amount the B&O tax liability exceeds \$420. If the tax liability is more than \$420 and less than \$840, the credit is equal to \$840 minus the initial tax liability. For example, if the initial liability is \$600, the credit is \$240 (\$840 minus \$600) and the net tax due is \$360 (\$600 minus \$240). If tax liability exceeds \$840 (twice the maximum credit), the credit is zero and the full amount of the tax is due.

All taxpayers are eligible to use this credit to reduce their B&O taxes. However, since the credit phases out at higher gross income amounts, only the smallest firms see a tax reduction.

**Summary:** The Department of Revenue may prepare a ranged tax credit table for use by taxpayers in taking the small business B&O tax credit. The table will cross reference tax liabilities with tax credits. The table must use tax ranges of no more than \$5 with cross references to the corresponding tax credits to be applied to those ranges. If the department prepares a table, all taxpayers are required to use the table to determine their credit amounts.

No taxpayer will owe a greater amount of tax as a result of the B&O tax credit table.

**Votes on Final Passage:**

House	97	0	
Senate	47	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

## HB 1267

C 293 L 97

Providing a use tax exemption for vessel manufacturers and dealers.

By House Committee on Finance (originally sponsored by Representatives B. Thomas, Zellinsky and Dickerson).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local

## HB 1269

sales taxes apply. The total tax rate is between 7 percent and 8.6 percent, depending on location. Sales tax applies when items are purchased at retail in state. Sales tax is paid by the purchaser and collected by the seller.

Use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue.

The use tax does not apply to the display of inventory by a seller. However, if a seller purchases property without paying retail sales tax and uses the property for any purpose other than display as inventory for sale, then the use tax applies even if the property may later be sold. For example, using the property as a demonstration model subjects it to use tax, even though the property may still be held for sale.

**Summary:** Manufacturers and dealers of vessels (watercraft) are exempt from use tax when a vessel or vessel trailer is used for the following purposes: testing, training, sales promotion, loaning to a nonprofit organization for up to 72 hours, displaying or demonstrating at a show, delivering to a buyer or person involved in the manufacture or sale of the vessel, and demonstrating to a potential buyer. If the manufacturer or dealer uses the vessel for personal use, the use tax must be based on the reasonable rental value of the vessel used, but only if the vessel is truly held for sale.

### Votes on Final Passage:

House	94	0
Senate	48	0

**Effective:** July 27, 1997

## HB 1269

C 223 L 97

Providing moneys for the death investigations account.

By House Committee on Law & Justice (originally sponsored by Representatives Robertson, Costa, Scott, Tokuda, Delvin and L. Thomas).

House Committee on Law & Justice  
House Committee on Finance  
Senate Committee on Ways & Means

**Background:** In 1983, the Legislature established the death investigations account to fund various activities associated with death investigations. Specifically, the account funds the state toxicology laboratory, the state forensic investigations council, and other activities such as reimbursing counties for the cost of autopsies.

The account is funded from part of the fees received for copies of vital records. Vital records are records of

birth, death, fetal death, marriage, dissolution, annulment, and legal separation.

The Department of Health charges a fee of \$11 for certified copies of vital records. The entire amount of the fee is turned over to the state treasurer. Local registrars also charge \$11 for copies of vital records other than death certificates. For death certificates, local registers charge \$11 for the first copy and \$6 for each additional copy ordered at the same time. Local registrars must turn over all but \$3 of the fee collected for a copy of a vital record to the local health department. The remaining \$3 is turned over to the state treasurer.

The state treasurer must hold the \$3 fee received from local registrars, and \$3 of the \$11 fee received from the DOH, in the death investigations account.

**Summary:** The fee charged by the Department of Health and local registrars for copies of vital records is increased to \$13. The fee charged by local registrars for additional copies of a death certificate ordered at the same time as the first copy is increased to \$8.

The portion of the fee charged for a copy of a vital record that is turned over to the state treasurer and held in the death investigations account is increased to \$5.

### Votes on Final Passage:

House	95	3
Senate	40	9

**Effective:** July 27, 1997

## SHB 1271

C 99 L 97

Relating to the establishment of commissioner districts and the election of commissioners of public hospital districts.

By House Committee on Government Administration (originally sponsored by Representatives L. Thomas, Scott, D. Sommers, Dunshee, Dournit, Mulliken, Gardner, Wensman and D. Schmidt).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Hospital districts are municipal corporations authorized to provide hospital and other health care services, construct and operate hospitals and other health care facilities, and impose regular property taxes and excess levies to finance their activities and facilities.

A hospital district is governed by a board of commissioners consisting of three members who are elected to six-year staggered terms of office using commissioner districts. Each commissioner district must include approximately the same population. Commissioner districts are used for residency purposes, where a commissioner from that commissioner district must reside in the commissioner district, and at primary elections, where only voters residing in the commissioner district may vote



to nominate candidates from that commissioner district. However, voters throughout the entire public hospital district vote to elect commissioners.

The number of commissioners may be increased from three to five or seven, if a ballot proposition providing for the increase is approved by a simple majority vote of voters voting on the proposition. If so approved, the additional commissioner districts are drawn and the additional commissioners are elected at the next state general election occurring 120 or more days after the ballot proposition was approved.

The board of commissioners may, by resolution, abolish the use of commissioner districts.

**Summary:** Changes are made to the election of public hospital district commissioners.

- 1) A newly created public hospital district may have three, five, or seven commissioners who are elected 1) using commissioner districts, 2) without the use of commissioner districts, or 3) using a combination of three commissioner districts and the remainder elected without commissioner districts. The county commissioners of the county or counties in which the district is proposed to be located must determine how the initial hospital district commissioners are elected. Provisions are made to stagger the terms of office.
- 2) The additional commissioners in any public hospital district with five or seven commissioners are elected without the use of commissioner districts, unless the board of commissioners adopts a resolution to have all of the five or seven commissioners elected using commissioner districts.
- 3) Any public hospital district that has abandoned the use of commissioner districts may re-authorize the use of commissioner districts if a ballot proposition reauthorizing commissioner districts is approved by voters.
- 4) The use of commissioner districts is altered so that these districts are no longer used at primary elections to nominate candidates from the district. Instead, voters throughout the entire public hospital district may vote at a primary to nominate candidates for the commissioner from any commissioner district.
- 5) When a public hospital district increases the number of its commissioners, the new positions are filled by appointment by the existing board of commissioners, as if vacancies existed, and the appointed commissioners serve until their successors are elected at the next district general election occurring at least 120 days after voters authorized the increase in the number of commissioners.
- 6) If, as the result of redrawing commissioner district boundaries, two or more commissioners associated with commissioner districts reside in a single commissioner district, such extra commissioner or commissioners administratively assigned to commissioner districts in which no commissioner resides to avoid a vacancy from occurring.

- 7) No appointment to fill a vacant position on, or election to, the board of commissioners of a public hospital district after June 9, 1994, and before the effective date of this act, is invalid solely based upon the district's failure to redraw commissioner district boundaries.

**Votes on Final Passage:**

House	95	0
Senate	48	0

**Effective:** April 21, 1997

**SHB 1272**  
**PARTIAL VETO**  
C 441 L 97

Establishing water conservancy boards.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Delvin, Chandler, Robertson, McMorris, Honeyford and Mulliken).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** The right to use water for a beneficial use remains appurtenant to the land where it is used. A water right may be transferred to another person if it can be made without causing an injury to existing water rights. If the water right is transferred, it becomes appurtenant to the land where it was transferred without any loss of priority.

To transfer a water right, an application must be filed with the Department of Ecology. The department must publish notice of the application in a newspaper of general circulation in the area. If the transfer may be made without injuring existing rights, then the department must issue the applicant a certificate granting the transfer. One certificate is filed with the department and a duplicate is given to the applicant who may file it with the county auditor.

If an application proposes to transfer a water right from one irrigation district to another, the department must receive concurrence from each of the irrigation districts that the transfer will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of the district. If the transfer will only involve a change in place of use within an irrigation district, then the only approval needed is from the board of directors of the irrigation district.

**Summary:** Water conservancy boards may be formed to establish a water transfer exchange through which any person who owns or holds a water right may list the right for sale or transfer.

**Formation.** A county legislative authority may form a water conservancy board subject to approval by the director of the Department of Ecology. The director of the

department has 45 days to approve or deny the resolution creating the board.

A water conservancy board may be initiated in any one of the following ways: (1) the county legislative authority may adopt a resolution on its own motion; (2) a resolution may be presented to the county legislative authority calling for the board's creation from an irrigation district, reclamation district, city operating a public water system, utility district operating a public water system, or a water-sewer district operating a public water system; (3) a resolution may be submitted from a cooperative or mutual corporation serving 100 or more accounts; (4) a petition may be submitted signed by five or more water-right holders who divert water for use within the county; or (5) any combination of the above.

The resolution or petition must: (1) state the need for the board, (2) identify the geographic boundaries where there is an initial interest in transacting water sales or transfers, (3) describe the proposed method for funding the operation of the board, and (4) include the proposed bylaws that will govern the operation of the board. If a county determines that the resolution or petition is sufficient, it must hold at least one public hearing on the creation of the board. Notice of the hearing must be published at least once in a newspaper of general circulation in the county. The county may adopt a resolution approving the creation of a board if the county finds that it is in the public interest.

The county forwards the resolution approving the creation of the board to the director of Ecology. If the director approves the creation of the board, a description of the necessary training for the commissioners of the board must be included with the notice of approval. The director may, as deemed necessary, adopt rules to carry out the statutes, including rules for minimum training and continuing education for commissioners. Training must include an overview of state water law and hydrology.

Each board consists of three commissioners. Commissioners are appointed by the county legislative authority for six-year terms. Commissioners must be residents of the county or a county that is contiguous to the county that the board is to serve. Individual water-right holders who divert water for use in the county must be represented on the board. A commissioner cannot participate in board decisions until completing the necessary training. Commissioners serve without compensation but may be reimbursed for travel and training expenses.

**Powers.** A water conservancy board is considered to be a separate unit of local government and operates on a county-wide basis. A board may sue and be sued, acquire and sell real and personal property, hire employees, and enter into and perform all necessary contracts necessary to carry out its functions. Boards are to be independently funded, as determined by the board but do not have the power of taxation. Boards do not have the power of eminent domain. Boards are subject to the Open Public Meetings Act.

A water conservancy board must establish procedures that are consistent with all applicable laws. The board may establish a water transfer exchange through which all or part of a water right may be listed for sale or transfer. Each board is required to maintain and publish all information available to the board concerning water rights listed with the board and any application to the board for an approval of a water transfer. The board may approve transfers of water rights that have not been adjudicated. A water transfer approved by the board must remain within an existing category of beneficial use. Transfers of water used for agriculture are limited to short- or long-term leases. Any transfer approved by the board is subject to final approval by the director of Ecology.

A transferor and transferee of any proposed water transfer may apply to a board for approval of a transfer if the water that will be transferred is currently diverted or used within the geographic boundaries of the board, or would be diverted or used within the boundaries of the board if the transfer is approved. Applications for transfers must be made on forms provided by the department.

The board may require such information in the application as needed in order to review and act on the proposed transfer. The application must include information sufficient to establish to the board's satisfaction that the transferor is entitled to the quantity of water being transferred. It must also describe any applicable existing limitations on the right to use the water, including the point of diversion or withdrawal, place of use, source of supply, purpose of use, time of use, quantity of use permitted, period of use, and the place of storage.

The board must publish notice of the application and send notice to the applicable state agencies. Any senior water-right holder who claims a detriment or injury to an existing water right as a result of the proposed transfer may intervene, and other persons may submit comments. The board may approve the application if it is complete, meets the requirements of the law, and does not cause an injury or detriment to existing water rights. If the board approves a transfer, it must issue the applicant a certificate conditionally approving the transfer, subject to review by the director.

A person who claims to be the holder of a water right that will be impaired because of the proposed transfer is entitled to a hearing before the board. The board may only approve a transfer that impairs the rights of a third party if the applicant or impaired party agree on compensation for the impairment.

Once a transfer is approved by the board and the proposed certificate conditionally approving the transfer is issued, the board must submit a copy of the certificate to the department for review. The board must include a report summarizing its findings on which it relied in approving the transfer. The board must also send notice to any person who objected to the transfer and to any person who requested notice. Any person who feels that his or

her water right will be impaired by the transfer may file objections to the transfer with the department.

The director has 45 days of receipt to review the board's decision to grant a transfer and may affirm, reverse, or modify the decision. The director may extend the time period for an additional 30 days upon the consent of the parties. If the director fails to act within the prescribed time period, the transfer is considered approved. Upon approval of the transfer or nonaction by the department, the conditional certificate issued by the board becomes final and valid.

The decision of the department to approve an action to create a board, or to approve, modify, or deny a water transfer is appealable in the same manner as other water right decisions.

**Miscellaneous.** The county or department is not liable for damages arising out of transfers approved by the board. A person who in good faith leases a water right cannot have that right lost by relinquishment due to the nonuse of the lessee. The requirements necessary for the approval of interties are not affected. Other water transfer laws are unaffected. Transfers of water between irrigation districts require the concurrence of both irrigation districts. A commissioner with an ownership interest in a water right subject to an application for a transfer or change by the board cannot participate in the board's review or decision on the application. The Department of Ecology must report biennially to the appropriate legislative committees on the activities of the boards.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed provisions of the bill that: established the criteria for a water conservancy board to approve water transfers; limited water transfers within existing categories of beneficial use; required concurrence of both irrigation districts if the water is being transferred from one irrigation district to another; required approval only from the board of directors of an irrigation district if the transfer only involves a change in place of use or a nonconsumptive use and the water remains within the irrigation district; and protected a person who in good faith leased a water right to another person from having the water right relinquished due to nonuse by the lessee.

**VETO MESSAGE ON HB 1272-S**

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval sections 8, 10, and 14 of Substitute House Bill No. 1272 entitled:

"AN ACT Relating to water transfers;"

*I have approved most sections of Substitute House Bill No. 1272 because it provides new ways to better use our existing water supplies. A water conservancy board will provide a county-wide mechanism for changing and exchanging water rights.*

*The Legislature authorized the Department of Ecology to adopt rules necessary to carry out this newly created chapter in the water code, including minimum requirements for the training and continuing education of board commissioners. This will be crucial for effective utilization of this new tool, and necessary before the Department can accept and approve the creation of any water conservancy board. Accordingly, I direct the Department of Ecology to initiate rule-making as soon as possible.*

*Subsections (1) and (3) of section 8 contain conflicting directions to a water conservancy board relating to its authority in approving water transfers.*

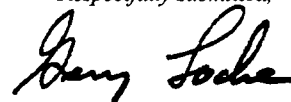
*Section 10 of SHB 1272 conflicts with RCW 90.03.380, which it was intended to mirror, and would likely create confusion in interpretation of the statutes and disagreement in the management of the resource.*

*Section 14 establishes a subjective standard for protection against relinquishment, requiring the Department of Ecology to prove that a person intended to circumvent the relinquishment statute in order to relinquish a leased water right. Because it is particularly difficult to prove a person's intent in this context, section 14 could lead to questionable leases to preserve unused water rights from relinquishment for non-use.*

*For these reasons, I have vetoed sections 8, 10, and 14 of Substitute House Bill No. 1272.*

*With the exception of sections 8, 10, and 14, Substitute House Bill No. 1272 is approved.*

Respectfully submitted,



Gary Locke  
Governor

**SHB 1277**

C 239 L 97

Providing for confidentiality of property tax information.

By House Committee on Finance (originally sponsored by Representatives B. Thomas, Dunshee, Carrell, Thompson and D. Schmidt; by request of Department of Revenue).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Generally, information held by a public agency is available for inspection and copying. There are a number of exemptions to the public records disclosure requirements. Many of these exemptions relate to personal information and proprietary business information.

A county assessor's records related to real property tax valuations are open to public inspection. However, confidential income data obtained by the assessor is not available for inspection.

Owners of personal property subject to property tax are required to provide the county assessor with a list of the property. The county assessor may inspect business records and accounts to determine the amount and value of

personal property. Generally, the assessor may use this information only for valuing the property and cannot disclose the information except with the permission of the owner. However, the assessor may share this information with the Department of Revenue for the purpose of determining sales or use tax liability. The information may be used in a court action related to penalties for failure to provide a list of personal property or providing a false list, a court action regarding the value of the property, or a court action related to sales or use taxes on the property. Violation of the disclosure provisions is a gross misdemeanor.

The Department of Revenue is responsible for establishing values for multi-county utilities such as railroad companies, light and power companies, airline companies, gas companies and others. These companies are required to file reports containing proprietary business information. The Department of Revenue uses this information to determine the value of the company's real and personal property. The department may also inspect the company's books, accounts and other records.

A property tax exemption is available for emergency or transitional housing for low income homeless persons. Low income means income below 80 percent of median income. Applications with the Department of Revenue for exemption may contain information on persons using these facilities.

**Summary:** Information obtained by assessors about personal property may be used in administrative proceedings regarding the value of the property, sales and use tax due on the property, or penalties for failure to provide a list of the personal property or providing a false list. The Department of Revenue is made subject to the same penalty as the assessor for violation of the disclosure laws.

Confidential income data and proprietary business information obtained by the Department of Revenue in administering the property tax laws may not be disclosed. Exceptions to this disclosure prohibition permit disclosure:

1. to a county assessor or treasurer;
2. in a civil, criminal or administrative proceeding regarding taxes, penalties or valuation;
3. with written permission of the taxpayer;
4. to a property tax official in a state which provides Washington officials the same privilege;
5. of information held by another agency as a public record; and
6. to a peace officer or county prosecutor in response to a search warrant, subpoena or court order.

Also exempt from public disclosure are names of individuals residing in emergency or transitional housing, where the names have been furnished to the Department of Revenue to substantiate a property tax exemption.

**Votes on Final Passage:**

House	97	0	
Senate	45	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**HB 1278**  
PARTIAL VETO  
 C 100 L 97

Concerning the labeling of malt liquor packages.

By Representatives K. Schmidt, Hatfield, Mitchell, Pennington, Scott, Mielke, Cody, Honeyford and Delvin.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Labels that appear on bottled malt liquor products must have federal approval and must meet certain state requirements. State law requires the label to identify the contents, the name of the manufacturer, and the place of manufacture. Bottles containing malt liquor beverages must use the term beer, ale, malt liquor, stout, or porter.

The term "malt beverage" or "malt liquor" includes beer, ale, and lager beer. There is no authority to use the term "lager" for labeling purposes or in connection with other malt beverages such as ales.

**Summary:** The term "lager" may appear on labels of malt liquor products. The term includes all currently identified malt beverages such as beer, ale, lager beer, stout, and porter.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the section of the bill that included in the term "lager," all currently identified malt beverages such as beer, ale, lager beer, stout and porter.

**VETO MESSAGE ON HB 1278**

*April 21, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington*

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to section 2, House Bill No. 1278 entitled:*

*"AN ACT Relating to requiring beer manufacturers to use the term lager on the outside label of contents of packages containing malt liquor;"*

*This legislation allows beer manufacturers or distributors to use the word "lager" as a stand-alone labeling term on the labels of malt beverages, to identify the contents.*

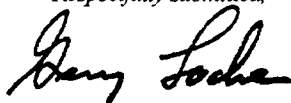
*Section 2 of this legislation defines the word "lager" the same as the definition provided in the Liquor Code for "malt beverage" and "malt liquor." However, these terms do not have the*

same meaning. Even if this definition were correct, it is unnecessary to accomplish the purpose of the bill.

For these reasons, I have vetoed section 2 of House Bill No. 1278.

With the exception of section 2, House Bill No. 1278 is approved.

Respectfully submitted,



Gary Locke  
Governor

**HB 1288**

C 13 L 97

Changing the name of the noncertificated employee category.

By Representatives Johnson, Hickel, Conway, Cody, Cole, Quall, Smith, Blalock, L. Thomas and D. Schmidt.

House Committee on Education  
Senate Committee on Education

**Background:** School district personnel include “certificated” and “classified” personnel. The Superintendent of Public Instruction issues four types of certificates for teachers, administrators, vocational education instructors, and personnel such as counselors, nurses, and librarians.

Classified personnel include clerks, custodians, bus drivers, educational assistants, maintenance employees, food service workers, and supervisors. The Superintendent of Public Instruction does not certify classified personnel.

The education codes use the terms “classified” and “noncertificated” interchangeably.

**Summary:** References to “noncertificated” school district staff are changed to “classified.”

**Votes on Final Passage:**

House	95	0
Senate	47	0

**Effective:** July 27, 1997

September 1, 2000 (Section 2)

**ESHB 1292**

FULL VETO

Expanding claims management authority for industrial insurance rating programs.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Lisk, Quall, Linville, Thompson, Mulliken, Sheldon, Grant, D. Schmidt, Skinner, Robertson, Boldt, Honeyford and Clements).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Department of Labor and Industries determines the premium rates that employers pay for industrial insurance with the state fund. The rates must be the lowest rates necessary to maintain actuarial solvency in accordance with recognized insurance principles. The rating system must also be consistent with recognized principles of workers’ compensation insurance and be designed to stimulate and encourage accident prevention. The department may readjust rates in accordance with the rating system.

The department is authorized to insure the workers’ compensation obligations of employers as a group, and consider the group as a single employing entity for purposes of dividends or premium discounts, if certain statutory criteria are met.

The department has adopted rules providing for retrospective adjustment of an employer’s premium under a retrospective rating plan. The plan is also available to groups of employers qualified under the statute. The plan is available on a voluntary basis for a one-year period, beginning in January, April, July, or October, and may be renewed at the end of that year. The plan must be consistent with recognized insurance principles and be administered under rules adopted by the department.

**Summary:** The Department of Labor and Industries is required to offer an industrial insurance retrospective rating plan. Employers or groups of employers participating in retrospective rating plans are granted expanded authority to assist the department in processing claims.

Establishment of retrospective rating plans. The Department of Labor and Industries is directed to offer a voluntary retrospective rating plan to qualified employers and groups of employers. The plan must be available for one year, renewable at the end of the year. The plan must be consistent with recognized insurance principles and be administered under department rules.

Claims processing authority. In addition to the general authority deemed appropriate by the department, retrospective rating plan employers or groups of employers using authorized claims administrators may assist in the processing of claims that have a date of injury on or after January 1, 1998. The department’s rules specifying the employer’s or group’s authority must include:

- authorization to schedule medical examinations, using only the attending physician or providers who have been qualified as approved providers by the department. An employer or group may authorize medical examination fees that exceed the department’s provider fee schedules, but the employer or group must pay the difference. For independent medical examinations, the employer or group must select examiners from a rotating list of no more than five names for each provider specialty unless the list is not provided within three working days of a written request for the list or the

employer is scheduling pursuant to special circumstances, as permitted in department rules; and

- authorization to initiate vocational or other rehabilitation services and select providers from the department's contracted provider list or use department providers. Services may include job placement services, skill enhancement services, vocational rehabilitation plans, or other accepted services.

Authority to close claims. Retrospective rating plan employers and groups of employers using authorized claims administrators may close industrial insurance claims having a date of injury on or after January 1, 1998, if:

- the claim involves medical treatment or the payment for 120 days or less of time loss benefits, or both;
- the claim does not involve permanent disability;
- the department has not intervened in the claim because of a dispute; and
- the injured worker has returned to work with the retrospective rating plan employer or group at the worker's previous job or at a job with comparable wages and benefits. "Comparable wages and benefits" means that the worker's new wages and benefits do not exceed a 5 percent loss compared to the job at the time of injury.

Closures must be reported to the department as prescribed by department rules. At the time of closure, the retrospective rating plan employer or group must notify the worker, attending physician, and the department. The notice must inform the worker of his or her rights to protest the closure to the department.

Dispute resolution. If a dispute arises from the handling of a claim by the retrospective rating plan employer or group before the worker's condition becomes fixed, the worker or employer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion.

Employer penalties for violations. If an employer or group violates the claims processing or claims closure authority, the department must notify the employer or group in writing and outline the corrective action to be taken. The employer or group is subject to penalties for: (1) failing to take the required corrective action within the period specified by the department; or (2) committing a second violation of the similar nature. Penalties may also be imposed if the violation resulted in or could have resulted in a loss of worker rights or benefits. The employer or group is also subject to suspension of authority to assist in claims processing for up to two years if the department finds a pattern of improper claims closure or other violations of claims processing authority.

Rules adoption. The department must adopt all necessary rules governing administration of the retrospective rating plan program. The rules may require notification of the department before the employer or group exercises the authority granted under the program. However, the rules

must minimize the need for the department to respond and any failure or delay in the department's response must not impede timely administration of the claim.

The rules must establish qualifications, and approval and disapproval procedures, for authorized claims administrators. An authorized claims administrator must demonstrate a knowledge of industrial insurance laws and an expertise in processing claims.

**Votes on Final Passage:**

House	62	33	
House	65	30	(House reconsidered)
House	61	34	(House reconsidered)
Senate	25	24	

**VETO MESSAGE ON HB 1292-S**

May 16, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1292 entitled:

"AN ACT Relating to expanding claims management authority for industrial insurance retrospective rating programs;"

*This bill would authorize employers and groups of employers participating in retrospective rating plans to assist the Department of Labor and Industries ("L&I") in processing workers' compensation claims. It would allow the employers to schedule medical examinations and initiate vocational or other rehabilitation services. The bill would also authorize these employers to close claims involving medical treatment or time loss of less than 120 days.*

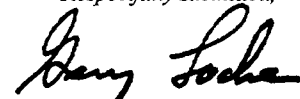
*While I share the concerns of the proponents of this bill about the need to improve the timeliness of claims processing and claims closure, I believe the approach taken in this legislation grants employers too much control over their own workers' compensation claims. The authority given to employers to select independent medical examiners and vocational rehabilitation counselors is not tempered by enough protection for injured workers. Also, the definition of any claim with a duration of less than 120 days as a simple claim is not consistent with the findings of the Long-Term Disability Task Force, which determined that 90 days is the appropriate duration.*

*L&I currently offers state fund employers the ability to participate in a successful retrospective rating workers' compensation program. That program has proven successful by lowering costs for employers, providing safer work sites for employees, and maintaining the balance between employers and injured workers. Under the current plan, L&I serves as the neutral administrator of the claim, balancing the interests of the employer and the injured worker.*

*I encourage the interested parties to continue to work together to find a solution to the concerns that provided the impetus for this legislation. Those who represent workers as well as those who represent employers have come a long way toward meeting each other in the middle on these difficult issues.*

*For these reasons, I have vetoed Engrossed Substitute House Bill No. 1292 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**HB 1300**

C 101 L 97

Making technical corrections affecting the department of financial institutions.

By Representatives Sheahan, Appelwick, Hickel and L. Thomas; by request of Statute Law Committee.

House Committee on Law & Justice  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** In a given legislative session, two or more bills may amend the same section of the Revised Code of Washington without reference to each other. This is often called "double" or "multiple" amendments. Usually there are no substantive conflicts between the multiple amendments to a section of the code. Merging multiple amendments, however, may require some restructuring of a section for grammatical or other reasons.

In addition, one bill may amend a section, and another bill may repeal that section. When both bills pass, the Code Reviser may decodify the section that was repealed and make a note of it in the code.

The Statute Law Committee reviews the code and recommends legislation to make technical corrections, including reconciling multiple amendments and deleting obsolete references in the code.

**Summary:** Technical corrections are made to various sections of the code relating to the Department of Financial Institutions. The corrections include deleting redundancies and obsolete provisions, reinserting language inadvertently deleted, and correcting inconsistencies.

**Votes on Final Passage:**

House	97	0
Senate	46	0

**Effective:** July 27, 1997

**E2SHB 1303**

**PARTIAL VETO**

C 431 L 97

Changing education provisions.

By House Committee on Appropriations (originally sponsored by Representatives Hickel, Johnson, Talcott, Smith, Backlund, McMorris, Radcliff, Thompson, Clements, Sheahan, B. Thomas, D. Schmidt, L. Thomas, Huff, Crouse, Robertson, Schoesler, Pennington, Cooke, Sullivan, Mitchell, Kastama, Dyer, Cairnes, Sump, Sterk, McDonald and Koster.

House Committee on Education  
House Committee on Appropriations  
Senate Committee on Education

**Background:** Waivers. School districts may request waivers from state laws and administrative rules under a few statutes. The State Board of Education (SBE) and the Superintendent of Public Instruction have authority to grant waivers.

For example, a school district may petition the SBE for a reduction in the total program-hour offering requirements for one or more of the grade level groupings required in the Basic Education Act. The state board must grant the request under certain circumstances.

A broader waiver provision establishes criteria under which school districts may obtain waivers from the self-study requirements, teacher classroom contact hours, and total program-hour offerings if the school district submits a plan to the SBE for restructuring its educational program or the program of individual schools.

Another statutory provision provides that school districts may obtain waivers from the provisions of statutes or rules relating to the length of the school year, student-to-teacher ratios, and other administrative rules that in the state board's or the superintendent's opinion may need to be waived to allow a district to implement an education restructuring plan in the district or individual schools.

Despite the ability to obtain waivers of certain laws and rules, federal and state constitutional laws, certain federal regulations, and other state statutes effectively restrict the ability of a school district to obtain certain waivers.

Probation periods. If a certificated school employee's work is considered unsatisfactory based on district criteria, the employee must be notified of the specific problems and be given a suggested specific and reasonable program for improvement. The notice must be given by February 1. The employee may then be placed on probation beginning on or before February 1, and ending no later than May 1. The purpose of the probationary period is to give the employee the opportunity to demonstrate improvement in his or her area of deficiencies. Lack of necessary improvement constitutes grounds for finding probable cause for discharge or non-renewal.

Collective bargaining. Classified and certificated employees have a right to enter into collective bargaining agreements with school districts. The scope of what may be contained in collective bargaining agreements is broad, and includes grievance procedures, wages, hours, and working conditions.

**Summary:** Waivers. A school district board of directors may grant to individual schools within the district full or partial waivers of certain state laws that govern education provisions and the rules and policies that implement those laws. The principal must prepare an application identifying which laws and rules the school would like the district to waive and the rationale for the request. The rationale must identify how granting the waivers will improve stu-

dent learning or the delivery of education services in the school. The school board must provide for public review and comment regarding the waiver request.

The following may not be waived:

- laws and rules pertaining to health, safety, and civil rights;
- assessment, accountability, and reporting requirements for the fourth, eighth, and eleventh grade standardized tests;
- statewide assessment requirements measuring the essential academic learning requirements;
- annual school performance reports;
- state and federal financial reporting and auditing requirements;
- various provisions of the Basic Education Act and the essential academic learning requirements being developed by the Commission on Student Learning;
- total program-hour offering requirements except as provided in current law;
- state constitutional requirements;
- the authority of the school board to grant waivers; and
- certification requirements.

School district boards of directors must certify to the SPI Superintendent of Public Instruction (SPI) that they have waiver review processes in place and must transmit to the SPI and the SBE a list of laws and rules that have been waived and a description of the process used to waive them. The SPI or the SBE must approve the waiver if the school board has complied with the specified requirements. The SPI or the SBE must approve or deny the waiver within 40 days. If the waiver is not approved the SPI or SBE may make recommendations to the district to assist the district in accomplishing the goal sought by the waiver.

School district boards of directors must report annually to the SPI about the impact on student learning or delivery of education services resulting from the waivers granted.

The SPI and the SBE must report to the Legislature by November 1, 2000, identifying the laws and rules that have been waived.

Specific provisions regarding the ability of schools to obtain waivers is added to various chapters of the education code. Those specific provisions provide that schools may obtain waivers that pertain to the "instructional program, operation, and management of schools."

Those specific provisions are added to the following chapters in the education code:

- general provisions governing the Basic Education Act, except as prohibited;
- special education, except that school districts may not waive the district's obligation to meet state and federal statutes applicable to the education of individuals with disabilities or state braille laws;
- learning assistance program;

- dropout prevention and retrieval program;
- transition bilingual instruction program;
- highly capable students;
- traffic safety;
- compulsory school attendance and admission provisions;
- compulsory course work and activities;
- food services, (state and federal school breakfast and school lunch programs);
- general provisions governing the SPI;
- general provisions governing the SBE;
- provisions applicable to certain school districts of different classes;
- provisions governing employees' salary and compensation and benefits, hiring and discharge;
- provisions governing students, such as honors award programs, scholars programs, high school options, school locker searches, alternatives to suspension, mandatory expulsion for possession of firearms on school premises, and exchange of information with other entities; and
- sexual equality and sexual harassment provisions.

The school district's authority to grant waivers is not subject to collective bargaining.

The SPI must conduct a study to identify additional ways to increase flexibility for schools and school districts. A report is due to the Legislature by December 1, 1997.

Probation periods. A certificated school employee may be placed on probation any time after October 15. A probation period will run for 60 days. When an employee is placed on probation, the employee must remain under supervision of the original evaluator. The original evaluator must document either improvement of performance, or probable cause for discharge or non-renewal before consideration of a request for transfer. If the employee does not improve satisfactorily, the employee may be removed from the assignment and moved into an alternative assignment for the rest of the school year without adversely affecting the employee's compensation or benefits. If re-assignment is not possible, the employee may be placed on paid leave.

The act expires June 30, 1999.

**Votes on Final Passage:**

House	63	33	
Senate	25	24	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House	66	32	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the authority of school districts' board of directors to grant waivers from statutes and rules governing special educa-



tion, bilingual education, truancy, sexual equality, and probationary periods for certificated school employees.

### VETO MESSAGE ON HB 1303-S2

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4, 7, 10, 20 and 21, Engrossed Second Substitute House Bill No. 1303 entitled:

"AN ACT Relating to education;"

Engrossed Second Substitute House Bill No. 1303 authorizes school districts' boards of directors to grant to individual schools within their districts full or partial waivers of specified laws and rules relating to education. This authorization provides greater flexibility to locally elected officials and enables principals to propose what is best for the children in their schools. Because the authorization is granted only until June 30, 1999, and because the legislation requires the Superintendent of Public Instruction to study the effect of the waivers, it is clear the Legislature intended this legislation to be an experiment in greater local authority and flexibility.

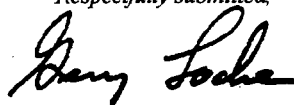
Section 4 would allow the waiver of statutes that protect the educational rights of students with disabilities, section 7 would allow the waiver of statutes that protect bilingual students, section 10 would allow waiver of the state wide truancy standards, section 20 would allow waiver of statutes that protect sexual equality, and section 21 amends the statute regarding probationary periods for certificated school employees. I believe there is sufficient new authority and flexibility in this bill regarding other parts of education law to enable a meaningful "experiment in greater local authority and flexibility" without the inclusion of these statutes designed to protect special populations of students.

The state wide truancy standards were part of the "Becca Bill" and are just beginning to have an effect. It would be inappropriate to allow them to be waived so soon. Except for the expiration date, section 21 is identical to provisions in SB 5340 which I have already approved.

For these reasons, I have vetoed sections 4, 7, 10, 20 and 21 of Engrossed Second Substitute House Bill No. 1303.

With the exception of sections 4, 7, 10, 20, and 21, Engrossed Second Substitute House Bill 1303 is approved.

Respectfully submitted,



Gary Locke  
Governor

### SHB 1314

C 125 L 97

Computing the time within which an act is to be done.

By House Committee on Law & Justice (originally sponsored by Representatives Bush, Cooper, Carrell, Wood, Smith, Lambert, McDonald, Benson, Mielke, Cole, Talcott, Romero, Mastin, Scott, Sheahan, Lantz, L. Thomas, D. Schmidt, Cooke, Sherstad, Wensman and Dunn).

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** A chapter of the Revised Code of Washington provides general rules on the construction of statutory provisions. These general rules apply throughout the code unless a particular statute provides otherwise.

Many provisions of the law require an act to be done within a specified period of time. The general rule on how to compute time provides that a time period is computed by excluding the first day and including the last day, except that if the last day is a holiday or a Sunday, that day is also excluded.

The Pollution Control Hearings Board hears and decides certain appeals from administrative decisions of the Department of Ecology. An appeal of a decision of the Department of Ecology must be made to the Pollution Control Hearings Board within 30 days from the date of the notice of the department's decision. A recent court of appeals case held that the 30-day period starts when the notice of the decision is mailed.

**Summary:** The general rule on the computation of time is amended to exclude a Saturday from the calculation if the Saturday is the last day of the time period.

The provision concerning an appeal of an administrative decision to the Pollution Control Hearings Board is amended to provide specifically that the 30-day period starts on the day that the notice of the administrative decision is mailed to the appealing party.

#### Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 27, 1997

### HB 1316

C 308 L 97

Designating state route number 35.

By Representatives Honeyford, Lisk, Boldt, Sump, Fisher and Dunn.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Each state highway numerical designation and location is prescribed by statute. State law also prescribes criteria to guide the Legislature in determining whether to make additions, deletions or changes in the state highway system. These criteria include: being part of a national highway system or part of an integrated system of roads connecting population centers, serving a county seat, serving a commercial-industrial terminal, or carrying significant cargo to a port or terminal. The Transportation Improvement Board (TIB) is charged with receiving petitions from cities, counties, or state agencies

## SHB 1320

for road additions or deletions from the state highway system.

There are three highway crossings of the Columbia River in the roughly 100-mile long State Route (SR) 14 corridor between I-205 near Vancouver and SR 97 near Goldendale. These crossings are the "Bridge of the Gods" at Cascade Locks, owned by the Port of Cascade Locks; the Port of Hood River Bridge at Hood River; and SR 197 near The Dalles.

The bridge connecting Hood River, Oregon, with the communities of White Salmon and Bingen on the Washington side is a two-lane structure, constructed in 1923. It is a toll bridge owned by the Port of Hood River and is under renovation to extend its useful life by 20 years.

**Summary:** A new state route number 35 is added to the state highway system. The route is to begin at the Washington-Oregon boundary line along the Columbia River to a junction with SR 14 near White Salmon. No existing route may be maintained or improved by the Transportation Commission as a temporary SR 35 until a bridge is constructed across the Columbia River.

### Votes on Final Passage:

House	95	0
Senate	48	0

**Effective:** July 27, 1997

## SHB 1320

C 6 L 97

Designating Anax Drury as the official insect of the state of Washington.

By House Committee on Government Administration (originally sponsored by Representatives L. Thomas, Cooke, Cairnes, D. Schmidt, Keiser, Robertson, Blalock, Ogden, Constantine, Veloria, Dunn and Anderson).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The Legislature has designated an official state tree, flower, grass, bird, fish, fruit, gem, dance, song, folk song, flag, seal, tartan, and arboretum. There is no official state insect. Many other states have designated an official state insect.

Dragonflies are considered to be beneficial insects because of the large number of insect pests that they consume.

**Summary:** The common green darner dragonfly is designated as the official state insect of the state of Washington.

### Votes on Final Passage:

House	96	1
Senate	44	2

**Effective:** July 27, 1997

## SHB 1323

C 126 L 97

Allowing electronic distribution of rules notices.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives D. Schmidt, Scott, Wensman, Morris, Costa and Dunn; by request of Department of Revenue).

House Committee on Government Reform & Land Use  
Senate Committee on Government Operations

**Background:** The Administrative Procedure Act requires agencies to send interested parties various notices of rule making and other agency procedures.

An agency must solicit comments from the public on a subject of possible rule making by preparing a pre-proposal "statement of inquiry." The statement of inquiry identifies the statute authorizing the agency to adopt rules on the subject, discusses why rules may be needed, and specifies the process by which interested parties may participate in the process. An agency must file the statement of inquiry with the code reviser for publication in the register and must send it to any person who has requested a copy.

Interpretive and policy statements are documents informing persons of an agency's interpretation of a statute or current approach to implementing a statute. An agency must maintain a roster of persons who have requested to be notified of interpretive and policy statements and must send copies of any statements which have been issued to persons on the roster.

Agencies must also send notice of proposed rules and proposals for the expedited repeal of rules to persons who request notice.

**Summary:** An agency with the capacity to transmit by electronic mail or facsimile mail may ask persons who are on mailing lists or rosters for copies of statements of inquiry, interpretive statements, policy statements, and other similar notices whether they would like to receive the notices electronically.

Electronic distribution to persons who request it may substitute for mailed copies.

Agencies which maintain mailing lists or rosters for any notices relating to rule making or policy or interpretive statements may establish different rosters or lists by general subject area.

### Votes on Final Passage:

House	97	0
Senate	48	0

**Effective:** July 27, 1997

## SHB 1325

C 374 L 97

Providing facilities for social service organizations.

By House Committee on Capital Budget (originally sponsored by Representatives Ogden, Mitchell, Costa, Hankins, O'Brien and Mason).

House Committee on Capital Budget  
Senate Committee on Ways & Means

**Background:** A variety of social service organizations located in communities around the state provide services to individuals, families, seniors, and youth. These organizations may be housed in leased facilities, donated facilities, or facilities owned by the organization.

The Department of Community, Trade and Economic Development (CTED) administers a number of programs to assist community-based organizations in providing social services. In addition, the CTED administers a competitive capital construction grant program for arts organizations.

During the 1995-97 biennium, the Legislature appropriated \$4 million to the CTED for grants to 16 nonprofit community action agencies to assist the agencies in acquiring, developing, or rehabilitating buildings for the purpose of providing community-based family services. The list of authorized agencies was originally proposed by the Washington State Association of Community Action Agencies. The capital appropriation provided grants for up to 25 percent of the capital costs of a project.

The Office of the State Auditor (OSA) conducts legal and fiscal examinations of state agencies and local governments, prescribes accounting and auditing procedures, and audits the state's annual statewide financial statements.

Federal law requires each non-federal entity that receives over \$300,000 annually in federal funds to complete a single audit that covers all of the operations of the entity. The audit must examine the entity's financial statements, schedule of expenditures, effectiveness of internal controls, and compliance with contracts, grants, laws, and regulations.

**Summary:** A process is established for soliciting and ranking applications for nonresidential capital projects for social service organizations. If the Legislature appropriates moneys to assist nonprofit organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential social services, the Legislature may direct the CTED to establish a competitive process to prioritize applications for the assistance. The CTED must conduct a statewide solicitation of project applications, and evaluate and rank applications using objective criteria, including an examination of the existing assets of the organization. An applicant must demonstrate that the state assistance will increase the efficiency or quality of the social services provided to citizens. State assistance is

limited to up to 25 percent of the total cost of the project. The CTED must submit a prioritized list of recommended projects to the Legislature by November 1 following the effective date of the appropriation. The CTED may not sign contracts with organizations for funding assistance until the Legislature has approved a specific list of projects. The contracts must require the repayment of both principal and interest costs of the grant if the capital improvements are used for purposes other than that specified in the grant. The CTED must develop and distribute a model contract containing this provision.

State agencies are required to report to the Office of the State Auditor (OSA) all entities that receive over \$300,000 in state moneys annually for the provision of social services. The OSA must select two groups of entities from these reports for audit. The first group must be randomly selected, the second group must be selected based on a risk assessment using specified risk factors. Each selected entity must complete a comprehensive entity-wide audit. Minimum audit requirements are specified. The OSA must adopt policies and procedures for conducting the audits. The OSA must deem audits conducted in conformance with federal requirements to meet the state audit requirements. Audits must be delivered to the OSA and the state agency by April 1 in the year following the selection of the entity for audit. Entities must resolve any audit findings within six months of the delivery of the audit. Entities may not enter into new contracts with state agencies until all major audit findings are resolved.

**Votes on Final Passage:**

House	95	1	
Senate	48	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**ESHB 1327****FULL VETO**

Reimbursing sellers for sales tax collection costs.

By House Committee on Finance (originally sponsored by Representatives Huff, Carrell, Quall, Mulliken, Morris, Linville, Ogden, Dunshee, B. Thomas, Johnson, Conway, Sheldon, Grant, Mastin, D. Schmidt, Robertson, Kessler, Skinner, Boldt, Lisk, Mielke, Dickerson, L. Thomas, O'Brien, Hatfield, Kenney, Gardner, Cooke, Costa, Ballasiotes, Thompson, Koster, Lantz, Mason, Schoesler, Dunn, Alexander and Anderson).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total tax rate is between 7 percent

and 8.6 percent, depending on location. Sales tax applies when items are purchased at retail in state. Sales tax is paid by the purchaser and collected by the seller. The seller pays the sales tax to the Department of Revenue. The state does not compensate businesses for administrative costs incurred in collecting sales tax.

**Summary:** Businesses may retain 1.00 percent of state retail sales tax collected from consumers on the first \$40,000 of retail sales per month. In addition, businesses may retain 0.50 percent of the state retail sales tax collected from consumers on retail sales greater than \$40,000 per month but less than or equal to \$120,000 per month. Businesses may not retain any percentage of tax collected on sales exceeding \$120,000 per month.

**Votes on Final Passage:**

House	92	5	
Senate	31	16	(Senate amended)
House	83	15	(House concurred)

**VETO MESSAGE ON HB 1327-S**

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1327 entitled:

"AN ACT Relating to reimbursing sellers for sales tax collection costs;"

Engrossed Substitute House Bill No. 1327 creates a method to reimburse retail sellers for the administrative costs of collecting the state retail sales tax. Under this legislation, retailers would keep one percent of the state retail sales tax collected on the first forty thousand dollars of taxable sales per month, and one-half of one percent of the state retail sales tax collected on sales greater than forty thousand dollars but less than or equal to one hundred twenty thousand dollars per month. Any amounts retained by retailers under this bill would also be exempted from the state business and occupation tax.

This bill represents a significant departure from current and well established state tax policy. At this time the state does not reimburse businesses for the collection of any of the major and general state taxes - a position taken by many other states as well. Retailers do, however, retain any interest or "float" earned on tax money between the dates of collection and remission to the state. Signing this bill would have implications far beyond the scope of reimbursing retailers for the collection of the state retail sales tax. In light of recent tax cuts and revenue needs of the state, it would not be prudent to sign this bill into law.

For these reasons, I have vetoed Engrossed Substitute House Bill No. 1327 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

Modifying the administration of the responsibilities of self-insurers.

By Representatives L. Thomas, Grant, Zellinsky, Sheldon and Mielke.

House Committee on Financial Institutions & Insurance  
Senate Committee on Commerce & Labor

**Background:** Employers covered by industrial insurance law must insure their responsibilities under the law by self-insuring or by purchasing insurance from the Department of Labor and Industries. Employers that self-insure must meet statutory requirements.

An employer who self-insures may reinsure up to 80 percent of its liabilities with any company authorized to transact reinsurance in Washington. The reinsurer may not participate in the administration of the employer's self-insurance program.

**Summary:** Until July 1, 2001, a subsidiary, holding company, or affiliated legal entity of a reinsurer of a self-insurer's liability under industrial insurance law may participate in the administration of the self-insurance program if the subsidiary, holding company, or affiliated legal entity does not provide reinsurance.

By January 1, 2000 the Department of Labor and Industries must report to the Legislature on the adjudication of claims by self-insurers and the impact this act has on the adjudication of claims by self-insurers. The department is given authority to adopt rules to implement this act.

**Votes on Final Passage:**

House	54	40	
Senate	29	19	(Senate amended)
House	54	42	(House concurred)

**VETO MESSAGE ON HB 1330**

May 14, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 1330 entitled:

"AN ACT Relating to administration of the responsibilities of self-insurers;"

House Bill No. 1330 would allow third party administrators of workers' compensation claims to purchase reinsurance through an affiliated or parent company.

Such a statutory change would dramatically alter the allowable relationship between third party administrators and reinsurers and have the potential of compromising the neutrality of third party administrators. Ultimately, this could jeopardize or improperly limit the benefits to which workers are entitled under the workers' compensation program. As a claim matures and begins to reach the retention level of the excess policy, the third party administrator would be required to inform the affiliated excess carrier that a potential liability exists. While benefits would likely continue, the affiliated excess carrier would be re-

miss in its own obligations if it did not become concerned and look closely at the further administration of the claim.

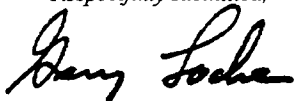
Furthermore, this bill has the potential of transferring employers' workers' compensation obligations to reinsurance companies. For example, if an excess carrier were to market a reinsurance policy with a deductible feature and the deductible be met, the excess carrier would own the management of that claim. This defeats the current prohibition against a private insurance company managing Washington workers' compensation claims.

This bill would also mandate that the Department of Labor & Industries study the effects of this legislation. No funding is provided in the adopted state operating budget for the additional burden this bill would place on the department.

One purpose of this bill is to encourage competition in the reinsurance market. However, there appears to be no need to make this kind of departure from the protections in current law to encourage competition. There are already nearly 21 companies offering this line of excess insurance coverage in this state.

For these reasons, I have vetoed House Bill No. 1330 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**HB 1341**

C 156 L 97

Making technical corrections for tax provisions.

By Representatives Thompson, Dunshee, B. Thomas and Wensman; by request of Department of Revenue.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Some excise and property tax statutes contain outdated provisions and include numerically out-of-sequence references to other statutes. These statutes also contain incorrect cross-references as the result of a statute being amended without simultaneously updating other statutes that make reference to the amended statute.

Business and occupation and property tax statutes define agricultural products differently, but the two definitions essentially encompass the same items.

**Summary:** The following technical corrections are made to excise and property tax statutes:

- replaces gender-specific references are replaced with gender-neutral terms;
- outdated provisions are deleted;
- cites to other statutes are reordered so that the cites are in numeric sequential order; and
- subsections are renumbered to correct references to a statute amended in a prior session.

For property tax purposes, the definition of agricultural products is amended to refer to the definition used for business and occupation taxes.

**Votes on Final Passage:**

House	97	0
Senate	48	0

**Effective:** July 27, 1997

**SHB 1342**

PARTIAL VETO

C 157 L 97

Revising interest and penalty administration of the department of revenue.

By House Committee on Finance (originally sponsored by Representatives B. Thomas, Dunshee and Wensman; by request of Department of Revenue).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The Department of Revenue (DOR) administers a variety of tax programs. Each program provides for the application of interest and penalties when a taxpayer does not satisfy his or her reporting or tax obligations in a timely manner, or when a taxpayer overpays the amount of tax due. The interest rates and penalties applied are not uniform across all tax programs. There are general administrative rules that apply in the absence of specific provisions for a particular tax.

Interest Computation - Tax Liabilities - Generally. Interest is computed on a tax liability from the last day of the year in which a deficiency is incurred until the date of payment.

Interest Rate - Tax Liabilities - Generally. A taxpayer who does not pay the entire amount of a tax obligation on the due date must pay interest on the amount of the remaining tax liability. If the liability arose prior to January 1, 1992, interest is charged at an annual rate of 9 percent. If the tax liability is incurred on or after January 1, 1992, the interest rate equals an annualized average of the federal short-term rate plus two percentage points. This rate is calculated by taking an arithmetical average of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the preceding calendar year. While most outstanding tax balances are for tax obligations incurred since 1992, there are still some taxpayers who owe back taxes for periods prior to 1992. Therefore, some tax accounts are assessed at the older 9 percent tax rate.

Interest Rate - Tax Refunds - Generally. A taxpayer who pays taxes, penalties, or interest in excess of the amount due is entitled to a refund of the overpayment and interest on the amount of the overpayment. The annual interest rate applicable to refunds on amounts overpaid before January 1, 1992, is 3 percent. The interest rate applicable to refunds on amounts overpaid on or after January 1, 1992, equals an annualized average of the federal short-term rate plus one percentage point.

Normally, refunds may only be claimed for amounts overpaid in the preceding four years. In some cases, however, such as a court judgment in a taxpayer's favor, refunds may be owed for periods prior to 1992. For these older cases, the Department of Revenue is obligated to use the lower 3 percent interest rate in computing tax refunds.

Interest Computation and Rate - Tax Warrants. The DOR issues tax warrants that include taxes owed plus penalties and interest already assessed. Interest is computed on the total amount of a warrant. The DOR computes interest on warrants every 30 days at a rate of 1 percent on the outstanding balance of the warrant amount.

Interest Rate - Real Estate Excise Taxes. Real estate excise tax must be paid within one month of the sale of property. If payment is not made within one month, then interest is assessed. The interest is charged at a rate of 1 percent per month.

Estate Taxes - Penalties and Interest. The person responsible for filing a federal estate tax return must also file a Washington estate tax return. The deadline for filing the Washington return is the same as the federal deadline. If a person fails to file a Washington estate tax return on time, the DOR assesses a penalty. The penalty equals 5 percent of the tax due for each month intervening between the date that the tax was first due and the date that the return is actually filed, up to a maximum penalty of 25 percent.

Interest on estate tax delinquencies is paid at a variable rate equaling an annualized average of the federal short-term rate plus two percentage points. Interest on estate tax refunds is paid at a variable rate equaling an annualized average of the federal short-term rate plus one percentage point.

Summary: Interest Computation - Tax Liabilities - Generally. The date that interest on a tax liability begins to accrue is changed. Instead of accruing interest from the last day of the year when a tax liability is incurred, interest starts to accrue from the last day of the month following the month when taxes were due. (For example, a quarterly taxpayer who must file a return for the tax period ending on March 31 and who fails to file and pay taxes due by April 30, will be subject to interest on the unpaid taxes that begins to accrue on May 1.)

Interest Rate - Tax Liabilities - Generally. Starting January 1, 1999, all taxpayer accounts, regardless of the age of the account, will be assessed interest at the same variable rate. The variable rate equals an annualized average of the federal short-term rate plus two percentage points.

Interest Rate - Tax Refunds - Generally. Starting January 1, 1999, interest allowed on all taxpayer refunds will be allowed at the same variable rate regardless of the tax period when taxes were overpaid. The variable rate equals an annualized average of the federal short-term rate plus two percentage points.

Interest Computation and Rate - Tax Warrants. Starting January 1, 1999, interest is assessed only on the portion of the warrant amount representing taxes due, and not on penalties and interest included within the total warrant amount.

Starting January 1, 1999, the Department of Revenue must compute interest on outstanding tax amounts for warrants on a daily basis and must use a variable rate equaling an annualized average of the federal short-term rate plus two percentage points.

Interest Rate - Real Estate Excise Taxes. Starting January 1, 1999, interest on delinquent real estate excise taxes will be assessed using a variable rate equaling an annualized average of the federal short-term rate plus two percentage points.

The Department of Revenue is responsible for notifying county treasurers of the variable rate to be used for each calendar year.

Estate Taxes - Penalties and Interest. The practice of automatically assessing estate tax penalties when a return is not filed on time is eliminated. The Department of Revenue must waive or cancel estate tax penalties if the late filing of a return is due to circumstances beyond the control of the person responsible for filing the return.

Beginning on January 1, 1999, interest on estate tax liabilities and tax refunds will be assessed at a variable rate equaling the federal short-term rate plus two percentage points.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the section allowing interest and penalties to be waived when an estate tax return is not filed on time due to circumstances beyond the control of the person responsible for filing it, since this section was duplicated by a similar provision in SB 5121 enacted as C 136 L 97.

**VETO MESSAGE ON HB 1342-S**

*April 23, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington*

*Ladies and Gentlemen:*

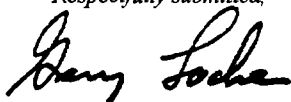
*I am returning herewith, without my approval as to section 5, Substitute House Bill No. 1342 entitled:*

*"AN ACT Relating to interest and penalty administration of the department of revenue;"*

*Section 5 of the bill would create a double amendment problem with Substitute Senate Bill 5121.*

*For these reasons, I have vetoed section 5 of Substitute House Bill No. 1342. With the exception of section 5, I am approving Substitute House Bill No. 1342.*

Respectfully submitted,



Gary Locke  
Governor

**HB 1349**

**FULL VETO**

Extending existing employer workers' compensation group self-insurance.

By Representatives McMorris, Kessler, Hatfield, Linville, Costa, Sheldon and Doumit.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Employers covered by the industrial insurance law must insure their responsibilities under the law by self-insuring or by purchasing insurance from the Department of Labor and Industries. Although a single employer with sufficient financial ability is permitted to self-insure, a group of employers is not permitted to self-insure as a group unless the employers are school districts, educational service districts, or hospitals. Hospital group self-insurance is limited to one group for public hospitals and one group for other hospitals.

Group self-insurers operate under rules adopted by the department that address requirements for formation of and membership in the group, responsibilities of the group's trust fund trustees, and the amount of reserves that must be maintained to assure financial solvency of the group. Self-insurers, except school districts, cities, and counties, participate in a self-insurance insolvency trust fund.

The certification of a self-insurer is subject to withdrawal on a number of grounds, including that the self-insurer fails to meet the financial and other requirements of the law, intentionally or repeatedly induces employees to fail to report injuries or to report injuries as off-the-job injuries, persuades claimants to accept less than the benefits due, or unreasonably makes it necessary for claimants to resort to proceedings to obtain compensation.

**Summary:** Employers in the logging industry are permitted to form industrial insurance self-insurance groups.

**Who may group self-insure.** Two or more employers in the logging industry may form self-insurance groups to cover their industrial insurance responsibilities if: (1) the employers are members of a qualified organization; and (2) the formation of the group self-insurance program will improve accident prevention and claim management for the employers. A qualified organization is one that has been in existence for at least five years, was formed for a purpose other than that of obtaining workers' compensa-

tion coverage under group self-insurance, and has, as members, employers with substantially similar occupations within the logging industry.

**Group self-insurance insolvency trust.** A group self-insurers' insolvency trust account is created to provide for the unsecured benefits paid to injured workers of defaulting group self-insurers. The trust will be funded by post-insolvency assessments against all group self-insurers, except school districts and hospitals, in proportion to their claim costs after the defaulting group's security deposit has been exhausted.

**Rules adoption.** A logging industry self-insurance group must organize and operate under the rules adopted by the director of the Department of Labor and Industries for group self-insurance.

The department must also adopt rules to carry out the group self-insurers' insolvency trust account, including rules regarding the manner of imposing and collecting assessments and governing the formation of the insolvency trust account.

**Votes on Final Passage:**

House	62	36
Senate	28	20

**VETO MESSAGE ON HB 1349**

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 1349 entitled:

"AN ACT Relating to extending existing employer workers' compensation group self-insurance to the logging industry;"

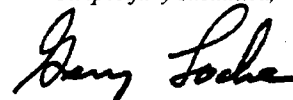
House Bill No. 1349 would allow two or more logging industry employers to form self-insurance groups to cover their industrial insurance responsibilities. It would also create an insolvency trust account to provide for the unsecured benefits paid to injured workers of defaulting group members, and for Department of Labor and Industries' (L&I) administrative costs.

Formation of group self-insurance under this legislation would also create an assigned risk pool, because the best risks and those most financially able will leave the state fund. Premium rates for small employers who remain in the state fund would increase dramatically. This bill could jeopardize the long-term stability and integrity of the industrial insurance fund.

In my opinion, the associations that would qualify to self-insure under this bill already have all these advantages within the L&I retrospective rating program. This program provides refunds to employers based on their safety and claims management success. To date, this program has been very successful in improving accident prevention and claims management for the employers in the group.

For these reasons, I have vetoed House Bill No. 1349 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**HB 1353**

C 240 L 97

Facilitating sale of materials from department of transportation lands.

By Representatives Buck, Fisher, K. Schmidt, Mitchell and Wensman; by request of Department of Transportation.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The Department of Transportation (DOT) is authorized to dispose of materials on state-owned land. The process requires a public auction to be held after due notice has been given. If no satisfactory bids are received, however, the department may sell the materials privately. An alternative process for disposal of materials of no value allows the DOT to issue permits and give the materials away.

When a parcel of land abutting a state right of way is logged, the small strip of timber that is left standing on the right of way is made vulnerable to blow-down, posing a safety hazard to the motoring public. The DOT is authorized to give away timber that has no value; but if the department wants to sell the timber, it must do so by public auction, regardless of the timber's value or quantity.

**Summary:** Two additional processes are prescribed that enable the Department of Transportation to dispose of timber attached to state land: 1) The department may sell the timber to an abutting land owner, for cash at the full appraised value. If there is more than one abutting landowner, all abutting landowners must be notified of the proposed sale. If more than one abutting landowner requests the right to purchase the timber, the timber must be sold through public auction; and 2) The department may sell timber having a value of \$1000 or less directly to interested parties for cash at the full appraised value, without public notice or advertisement. If the timber remains attached to state land, then the department must issue a permit that allows the interested parties to remove the timber. The permit fee is \$2.50.

**Votes on Final Passage:**

House:	96	0	
Senate:	43	0	(Senate amended)
House:	89	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1358**

C 127 L 97

Excluding materials purchased by farmers to improve wildlife habitat or forage from the definition of "sale at retail" or "retail sale" for tax purposes.

By House Committee on Natural Resources (originally sponsored by Representatives Buck, Regala, Sump, Schoesler, Johnson, Linville, Sheldon, Wensman and Kessler; by request of Department of Revenue).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The Washington tax code makes most personal property items and personal, business, or professional services subject to "retail sales" or "sale at retail" tax. The code exempts from this sales tax sales of certain items such as feed, seeds, and fertilizer, used by participants in federal conservation reserve programs administered by the U.S. Department of Agriculture; sales of certain items to farmers for producing any agricultural product for sale; and sales of chemical sprays or washes to anyone for the purpose of post-harvest treatment of fruit for prevention of fungus or decay.

**Summary:** The exemptions from the retail sales tax are amended to add sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to farmers acting under cooperative habitat development or access contracts with the Department of Fish and Wildlife or other nonprofit groups designated as nonprofit under federal law to produce or improve wildlife habitat on land that the farmer owns or leases. Participants in three additional federal environmental programs are also eligible for the sales tax exemption.

**Votes on Final Passage:**

House	94	3
Senate	48	0

**Effective:** July 1, 1997

**ESHB 1360**

C 375 L 97

Allowing state patrol officers to engage in private employment.

By House Committee on Government Administration (originally sponsored by Representatives K. Schmidt, Scott, Zellinsky and Schoesler).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** No state employee or officer may use any person, money, or property under his or her official control or direction for private benefit or gain by the employee, officer, or any other person. An ethics board may adopt rules to allow occasional exceptions to this prohibition.

There is no express authority for, or prohibition against, Washington State Patrol officers engaging in off-duty law enforcement employment for private benefit.



**Summary:** Washington State Patrol officers may engage in private law enforcement off-duty employment, in uniform, for private benefit, under guidelines adopted by the chief of the state patrol. Use of their uniforms will be considered a de minimus use of state property.

The state is immune from liability for actions taken by Washington State Patrol officers while the officers are engaged in private law enforcement off-duty employment. If a person attempts to sue the state for such actions, that suit must be dismissed. State patrol officers engaged in private law enforcement off-duty employment must inform their private employers in writing that the state is immune from liability for tortious conduct by state patrol officers when they are on duty at such private jobs.

**Votes on Final Passage:**

House	95	0	
Senate	29	17	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**ESHB 1361**

C 309 L 97

Regulating electricians and electrical installations.

By House Committee on Commerce & Labor (originally sponsored by Representatives Clements, Skinner and Honeyford).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Department of Labor and Industries administers the electrical contractor licensing statutes. The department issues journeyman electrician certificates of competency and speciality electrician certificates of competency to qualified individuals who wish to engage in the electrical construction trade.

An applicant for a journeyman certificate must meet certain eligibility requirements to take an examination to establish his or her competency in the electrical construction trade. An applicant must have four years of full-time supervised work in the electrical construction trade or have successfully completed an apprenticeship program in the electrical construction trade. An applicant may be allowed to substitute two years of technical school for two years of supervised experience.

In addition, graduates of "a trade school program in the electrical construction trade established during 1946" are eligible to take the journeyman electricians' examination (the "Perry Institute exemption").

An electrical apprentice may work in a nonspecialty area in the electrical construction trade if directly supervised by a certified journeyman on a one-to-one ratio. The ratio requirement does not apply to graduates of the Perry Institute's program.

In 1992, the Washington Court of Appeals invalidated the Perry Institute exemption on the ground the exemption created a single entity classification which violated the privileges and immunities clause of the state constitution.

The Department of Labor and Industries also administers the regulation of electrical installations. The director of the department appoints an electrical inspector and assistant inspectors for this purpose.

**Summary:** The ratio of non-certified students to certified journeyman electricians working on a job site must be one certified journeyman electrician to four students. The students must be enrolled in public community and technical schools or working as part of an electrical construction program at not-for-profit nationally accredited trade or technical schools licensed by the Workforce Training and Education Coordinating Board. In meeting the ratio requirements, a trade school may receive input and advice from the Electrical Board.

An electrician from another jurisdiction applying for a certificate of competency must provide evidence to the Department of Labor and Industries that he or she has qualifications equal to those established under Washington's electrician certificate of competency law.

An applicant for the journeyman certificate of competency examination who has successfully completed a two-year electrical construction trade program at public community or technical colleges or at not-for-profit nationally accredited trade school may substitute up to two years of the school's program for two years of work experience under a journeyman electrician. The trade or technical school must be licensed by the Workforce Training and Education Coordinating Board and accredited by the Accrediting Commission of Career Schools and Colleges of Technology

The director of the Department of Labor and Industries is directed to appoint a chief electrical inspector who must provide the final interpretation of electrical standards, rules, and policies, subject to review by the director. Minimum education and experience qualifications for electrical inspectors are established.

**Votes on Final Passage:**

House	92	2	
Senate	46	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1364**

C 128 L 97

Updating provisions about the seizure and forfeiture of gambling-related property.

By House Committee on Commerce & Labor (originally sponsored by Representatives K. Schmidt, Delvin,

Mitchell and Wensman; by request of Gambling Commission).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Real and personal property that is involved in a violation of state gambling laws is subject to seizure by law enforcement officers. Once property is seized, law enforcement notifies the owner and the owner may seek recovery of the property. Property subject to seizure includes:

- gambling devices, such as slot machines or video lottery terminals;
- furniture, fixtures, and equipment;
- vehicles including aircraft;
- books and records;
- money, negotiable instruments;
- other personal property acquired with proceeds of professional gambling; and
- real property.

If certain seized property is not claimed by the owner within a specified time period, it is forfeited. This property includes vehicles, money and negotiable instruments, personal property acquired with proceeds of professional gambling activity, and real property. Any security interest that is held by innocent parties in property subject to seizure, is protected.

A person claiming property that has been seized, other than gambling devices, may assert his or her ownership interest at an administrative hearing before the agency seizing the property or before a court. The law enforcement agency must return property that is shown to belong to the owner claiming it.

The Gambling Commission must file an annual report with the state treasurer on property that is forfeited.

Only gambling devices or equipment authorized by the commission may be lawfully owned or possessed. There is no authority for a person to own or possess a slot machine unless it is an antique slot machine not used for any gambling purpose.

The commission and members of the commission are protected from personal liability for their actions and actions of commission employees while acting within the scope of their authority.

**Summary:** Any property subject to seizure in connection with a violation of gambling laws may be forfeited without further hearing if, after notice is given to the owner, the owner fails to claim the property in the time required.

If the owner of a gambling device claims ownership of the machine that has been seized, he or she must be afforded a hearing on the claim of ownership. At the hearing, the only issues to be decided are whether the device is a gambling device and whether it is an antique device.

The Gambling Commission is no longer required to submit an annual report on forfeited property to the state treasurer.

State and local law enforcement officers and any special agents of the commission are protected from liability when lawfully performing their duties relating to the seizure and forfeiture of property under the gambling law.

**Votes on Final Passage:**

House	95	0
Senate	47	1

**Effective:** July 27, 1997

**HB 1367**

C 264 L 97

Allowing surplus educational property to be given or loaned to entities for educational use.

By Representatives Johnson, Cole, Smith, Schoesler, Poulsen, O'Brien, Linville, Costa, Blalock, Cooper, Dickerson, Dunshee, Mason, Keiser, Wensman, Wood, Kessler and Gombosky; by request of Superintendent of Public Instruction.

House Committee on Education  
Senate Committee on Education

**Background:** School districts, educational service districts, or any state or local governmental agency concerned with education may declare property as surplus, including textbooks, other books, equipment, relocatable facilities (portables), or other materials. If the district or agency declares the property as surplus, then it must notify the public, and any public or private school that asks to be notified, that the surplus property is available for sale, rent, or lease at depreciated cost or fair market value, whichever is greater, to public school districts or private schools. The district or agency must give priority to students who wish to purchase surplus textbooks, and must wait 30 days following the public notice before disposing of the property.

The statute does not specify that a private school to which surplus property is made available must be an approved private school. An approved private school is one that meets the minimum approval standards for private schools set by the State Board of Education.

No provision is made for using surplus property to benefit indigent persons. An indigent person is defined variously in statute. Generally, an indigent person is a person who is unable to afford legal or other needed services. An indigent may be more broadly defined as a needy or destitute person.

Surplus personal property is any property other than real property such as books, furniture, office equipment, and educational supplies.

**Summary:** The private schools to which school districts, educational service districts, or any other public agency

concerned with education, may sell, rent, or lease surplus educational property must be approved private schools.

In lieu of selling, renting, or leasing surplus personal property at depreciated cost or fair market value, the school district or agency may grant the surplus educational property to other government agencies or indigents, as long as the surplus property is used for kindergarten through 12th grade educational purposes. Alternatively, the school districts and agencies may loan surplus personal property to a private nonreligious, nonsectarian organization if the property is used to provide kindergarten through 12th grade education for members of the public on a nondiscriminatory basis.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	(Senate amended)
House	91	0	(House concurred)

**Effective:** July 27, 1997

## E2SHB 1372

C 289 L 97

Creating the Washington advanced college tuition payment program.

By House Committee on Appropriations (originally sponsored by Representatives Carlson, Mason, Radcliff, O'Brien, Dunn, Kenney, Sheahan, Talcott, Hatfield, Schoesler, Mitchell, Costa, Cooper, Dickerson, Keiser, Wood and Kessler).

House Committee on Higher Education  
House Committee on Appropriations  
Senate Committee on Higher Education  
Senate Committee on Ways & Means

**Background:** In general, prepaid higher education tuition programs permit families to purchase tuition "units." The units may then be redeemed in the future by a student beneficiary for tuition at an institution of higher education. The 1996 Legislature directed the Higher Education Coordinating Board to develop a proposed statute for a prepaid tuition and fee program in Washington.

Fourteen states currently operate prepaid tuition programs: Alabama, Alaska, Colorado, Florida, Louisiana, Massachusetts, Michigan, Mississippi, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin. The following states are considering programs: California, Maine, Maryland, Missouri, New York, Rhode Island, and South Carolina.

**Summary:** Creation of Program. The Washington Advanced College Tuition Payment Program is established. The program allows the purchase of tuition units that may be redeemed for future tuition at a Washington institution of higher education at no additional cost. Units redeemed out of state or for graduate programs will be redeemed at the current weighted average tuition.

To purchase units, an individual or organization enters into a contract with the Higher Education Coordinating Board (HECB) to buy tuition units for a beneficiary. The beneficiary must be named by the purchaser at the time the purchaser enters into the contract with the HECB and must be a Washington resident. Qualified organizations may purchase units for future scholarships. At the time of purchase, the HECB determines the number of units needed to pay a full year's full-time tuition and fee charges, and sets the number of tuition units that each purchase is worth.

Administration. The program is administered by a committee consisting of the state treasurer, the director of the Office of Financial Management, and the chair of the HECB, or these officers' designees. This governing body determines the cost of each unit and the redemption value at the institutions of higher education. The governing body may limit the number of units purchased on behalf of any one beneficiary, but the limit may not be less than the equivalent of four years of full-time undergraduate tuition at a state institution.

The governing body must administer the program in an actuarially sound manner to endure that amounts in the trust are sufficient to satisfy trust obligations, including administration. The governing body must publicize and promote the program.

In addition, the governing body may:

- limit the number of tuition units used in any one year;
- impose administrative fees;
- consider advance payment for room and board contracts;
- establish a corporate sponsored scholarship program fund;
- consider a college savings program;
- purchase insurance;
- determine conditions of transferring units to other family members;
- contract for services; and
- solicit and accept cash donations.

The governing body must consult with the State Investment Board, the Office of the State Treasurer, the Office of the State Actuary, the Office of Financial Management, and institutions of higher education regarding operation of the program. After two years, the governing body must recommend whether the program should continue to be administered by the governing body or be assigned to another state agency.

Account Created. The advance college tuition payment account is created in the custody of the state treasurer. The account retains its own interest earnings. The HECB authorizes expenditures from the account to institutions of higher education on behalf of the eligible beneficiaries of the program.

State Obligation. Contracts for the purchase of tuition units are legally binding on the state. If amounts in the

advance college tuition payment account are insufficient to satisfy the state's obligation for a given biennium, the Legislature must appropriate to the account the amount necessary to cover those expenses.

The State Investment Board. The State Investment Board has power to invest, reinvest, manage, contract, sell, or exchange investment money in the account. The State Investment Board must consult and communicate with the governing body on the investment policy, earnings of the trust, and related needs of the program.

Accountability. The governing body must annually evaluate the program. If funds are inadequate, the governing body must adjust the price of subsequent tuition credit purchases to ensure soundness. If there are insufficient purchases, the governing body must request such funds from the Legislature as required to ensure the integrity of the program.

Program Termination. If the state terminates the program or determines that the program is not financially feasible, the governing body must stop accepting any contracts or purchases. The governing body must honor all tuition contracts for beneficiaries enrolled or within four years of graduation from a secondary school, or for 10 fiscal years from the termination date. Other contract holders will receive a refund equal to the value of the current weighted average tuition unit. Excess funds will be deposited in the general fund.

Refunds. If the beneficiary chooses not to attend college, the beneficiary will receive 95 percent of the weighted average tuition and fees in effect at that time. The refund is limited to 100 tuition units per year and must be made 90 days after certification of non-attendance.

Upon death or disability of the beneficiary, the governing body refunds 100 percent of unused tuition units. If the student graduates or completes the academic program, the governing body refunds up to 100 percent of any remaining unused weighted average tuition units.

If a beneficiary receives a tuition and fee scholarship, the governing body refunds 100 percent of the current weighted average tuition unit. Incorrect or misleading information may result in a refund of the purchaser's investment.

**Votes on Final Passage:**

House	96	0	
Senate	42	4	(Senate amended)
House	90	1	(House concurred)

**Effective:** July 27, 1997

**SHB 1383**

C 52 L 97

Establishing restitution for rape of a child.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Sheahan,

Dickerson, Ballasiotes, Constantine, Costa, Radcliff, McDonald, Mason, Schoesler, Mitchell, Blalock, L. Thomas, Sheldon, Wensman, Kenney and Kessler).

House Committee on Criminal Justice & Corrections  
Senate Committee on Law & Justice

**Background:** Restitution. When an offender is convicted of a felony, the court must impose restitution as part of the sentence when the offense results in injury to any person or damage to any property. Restitution is part of the penalty for purposes of meeting the goals of sentencing and does not replace or limit civil redress. Restitution must be based on easily ascertainable damages, actual expenses incurred for treatment, and lost wages. Restitution may not include reimbursement for mental anguish, pain and suffering, or other intangible losses, but it may include costs of counseling. For purposes of collecting restitution, an offender remains under the court's jurisdiction for a maximum of 10 years following release from confinement. The court must set a minimum monthly payment after considering a variety of factors, such as the total amount due, the offender's assets, and the offender's ability to pay. The payment schedule may be modified if warranted by a change in the offender's financial circumstances. The Department of Corrections supervises collection of restitution.

Statutory provisions governing restitution do not explicitly require the court to impose the costs of medical expenses associated with a pregnancy resulting from raping a child or any child support ordered for the child born from that rape.

Exceptional Sentences. An offender convicted of a felony may be sentenced to a sentence above the presumptive standard range for his or her offense established under the Sentencing Reform Act if the court finds that substantial and compelling reasons exist to justify an exceptional sentence. The court may consider a variety of aggravating factors when deciding whether to impose an exceptional sentence above the standard range. Some of those factors are enumerated in statute. Other factors have been developed by the courts.

The list of aggravating factors does not include a specific provision authorizing imposition of an exceptional sentence if the offense resulted in the pregnancy of a child victim of rape.

**Summary:** Restitution. If the offender is convicted of rape of a child and the child becomes pregnant, the court must include in its restitution order 1) all of the victim's medical expenses associated with the rape and the pregnancy, and 2) child support, if support is ordered pursuant to a separate civil superior court or administrative order. The offender must remain under the court's jurisdiction for purposes of satisfying this portion of the restitution obligation until the offender has satisfied the support obligation or 25 years following release from confinement.

**Exceptional Sentences.** The court may impose an exceptional sentence above the standard range if a child victim of rape becomes pregnant as a result of the rape.

**Votes on Final Passage:**

House	95	0
Senate	45	0

**Effective:** July 27, 1997

**SHB 1387**

**FULL VETO**

Clarifying the frequency of filing of rate adjustments for mandatory offering of basic health plan benefits.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, K. Schmidt, L. Thomas, Johnson, Huff and Dyer).

House Committee on Financial Institutions & Insurance  
House Committee on Appropriations  
Senate Committee on Financial Institutions, Insurance & Housing  
Senate Committee on Ways & Means

**Background:** Health carriers are regulated by the Office of the Insurance Commissioner (OIC). Rates for health plans are also regulated by the OIC. Generally, health carriers must set health plan rates that are reasonably related to benefits provided. Health plan rates for individuals, and small employers (50 or fewer employees) are subject to adjusted community rating. Health carriers may only adjust health plan rates for individuals and small employers annually except for changes in family composition, changes to benefits requested by the individual or employer, or changes due to government regulations.

**Summary:** Although a health carrier generally may not adjust the rate (premium) more frequently than annually for a particular individual or small employer who has been offered a plan, the health carrier may file rate adjustments every six months for health plans offered to new or renewing individuals or small employers.

**Votes on Final Passage:**

House	66	28
Senate	33	15 (Senate amended)
House	61	30 (House concurred)

**VETO MESSAGE ON HB 1387-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

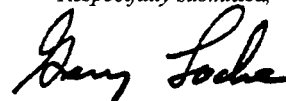
I am returning herewith, without my approval, Substitute House Bill No. 1387 entitled:

"AN ACT Relating to mandatory offering of basic health plan benefits;"

*This proposal would allow health insurers, health care service contractors and health maintenance organizations to file for rate increases every six months rather than annually. It would decrease consumer certainty regarding insurance rates and increase administrative costs of individual and small employer health benefit plans. In addition, community rates are currently estimated and adjusted by the Office of Insurance Commissioner on an annual basis; more frequent filings would be at odds with those calculations. This legislation does not solve a compelling problem and it negatively impacts consumers.*

*For these reasons, I have vetoed Substitute House Bill No. 1387 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**HB 1388**

C 348 L 97

Requiring that private organizations that contract with the department to operate work release facilities go through the siting process.

By Representatives Conway, Ballasiotes, Sullivan, Dickerson, Cairnes, Quall, Robertson, Wood, Blalock, O'Brien, Scott, Wensman, Cooper, Costa and Ogden.

House Committee on Criminal Justice & Corrections  
Senate Committee on Human Services & Corrections

**Background:** The Department of Corrections operates work release programs at various locations around the state. The department also contracts with a number of private sector businesses to operate several of the programs.

These programs allow inmates to leave the prison facility for a specified number of hours each day to work or otherwise re-establish themselves in the community. The inmates return to the facility for the rest of the day.

The department is required to provide sufficient notice to the public relating to the construction or relocation of a work release facility. The process includes:

- holding public meetings in the community where the work release site will be located to receive public comments on the proposed site;
- providing copies of site proposals and any alternatives;
- notifying the local media, schools, libraries, and government offices where the facility will be located;
- upon request, providing notices to local chambers of commerce, economic development agencies, and any other local organizations;
- providing written notification to all residents and property owners located within a half mile where the site is proposed;

## 2SHB 1392

- holding public hearings in the communities where the final three sites are being considered; and
- providing additional notification and public hearings in the community where the final site is being proposed.

It is unclear whether this provision applies to private businesses that contract with the Department of Corrections.

**Summary:** The facility siting statute is amended to require private organizations contracting with the Department of Corrections for the operation or relocation of a work release program or other community-based facility to follow the same facility siting process as the department and any other state agencies. Private businesses planning to build or relocate a work release facility must provide sufficient notice to the entire community located within a half mile radius. The requirement to comply with the state's facility siting process must be part of the Department of Corrections' contract with the contracting entity.

### Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	38	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 27, 1997

## 2SHB 1392

C 310 L 97

Enhancing crime victims' compensation.

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, Costa, Radcliff, O'Brien, Kessler, Blalock, Cody, Murray, Cole, Morris, Tokuda, Conway, Skinner, Johnson, Linville, Scott, Keiser, Cooper, Gombosky, Ogden and Anderson).

House Committee on Criminal Justice & Corrections  
House Committee on Appropriations  
Senate Committee on Law & Justice  
Senate Committee on Ways & Means

**Background:** The Crime Victims Act of 1973 established Washington's crime victims' compensation program (CVCP) to provide benefits to innocent victims of criminal acts. The Department of Labor and Industries was assigned authority for administering the program because benefits available to crime victims under this program were originally based on benefits paid to injured workers under the Industrial Insurance Act.

Under the Public Records Act, numerous records relating to personal privacy or vital governmental interests are sealed from public inspection and copying. It is unclear, however, whether this provision applies to records relating to appeals of crime victim's compensation claims.

An authorized representative of a crime victim claimant is permitted access to the claimant's file. A claimant, however, is not allowed access to his or her own CVCP file.

**Summary:** The Public Records Act is amended to exempt records relating to appeals of crime victims' compensation claims from the public inspection and copying requirements contained in the Public Records Act.

Crime victim claimants are permitted access to the information in their own CVCP files.

### Votes on Final Passage:

House	94	0	
Senate	46	0	(Senate amended)
House	91	0	(House concurred)

**Effective:** July 27, 1997

## SHB 1393

C 102 L 97

Requiring that a petition for review of a final order or judgment of the board of industrial insurance appeals regarding crime victim compensation be filed within ninety days of the final order or judgment.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ballasiotes, Costa, Radcliff, O'Brien, Kessler, Blalock, Cody, Murray, Cole, Morris, Tokuda, Conway, Skinner and Kenney).

House Committee on Criminal Justice & Corrections  
Senate Committee on Law & Justice

**Background:** The Crime Victims' Act of 1973 established Washington's crime victims' compensation program (CVCP) to provide benefits to innocent victims of criminal acts. The Department of Labor and Industries was assigned authority for administering the program because benefits available to crime victims under this program were originally based on benefits paid to injured workers under the Industrial Insurance Act.

Persons injured by a criminal act in Washington, or their surviving spouses and dependents, are generally eligible to receive benefits under the program providing that:

- The criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- The crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made;
- The application for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries or dependents accrued.

Under the Crime Victims' Act, claims are denied if the injury for which benefits are being sought was the result of "consent, provocation, or incitement" by the victim.

Claims are also denied if the injury was sustained while the victim was committing or attempting to commit a felony.

The Crime Victims' Act provides that the appeal procedures of the Industrial Insurance Act apply to appeals of denial of benefits. However, it further states that these appeal procedures concerning employers as parties to any settlement or appeal do not apply to appeals under the Crime Victims' Act.

All appeal petitions relating to crime victim compensation judgments must be filed within 60 days of the Department of Labor and Industries' final order or judgment.

**Summary:** The time period for a victim of a crime to appeal a decision of the Department of Labor and Industries under the crime victims' compensation program is extended from 60 to 90 days.

The Industrial Insurance Act is amended to add a provision paralleling an existing provision in the Crime Victims' Act. This provision states that the Industrial Insurance Act appeal procedures do not apply to matters relating to employers in actions under the Crime Victims' Act.

**Votes on Final Passage:**

House	95	0
Senate	45	0

**Effective:** July 27, 1997

**HB 1398**

C 347 L 97

Creating additional judicial positions in the Spokane superior court.

By Representatives Benson, Sheahan, Sump, Wood, O'Brien and Gombosky; by request of Administrator for the Courts.

House Committee on Law & Justice

**Background:** The Legislature sets by statute the number of superior court judges in each county. Periodically, the Office of the Administrator for the Courts (OAC) conducts a weighted caseload analysis to determine the need for additional judges in the various counties. The Legislature has authorized 11 judges for Spokane County, 13 for Snohomish County, and 19 for Pierce County. The analysis by the OAC indicates a need, as of 1996, for an additional 3.37 judges in Spokane County, an additional 6.19 judges in Snohomish County, and an additional 8.37 judges in Pierce County.

Retirement benefits and one-half of the salary and other employee benefits of a superior court judge are paid by the state. The other half of the judge's salary and all other costs associated with a judicial position, such as capital and support staff costs, are borne by the county.

**Summary:** The number of statutorily authorized judicial positions in Spokane County is increased from 11 to 13. The additional judicial positions take effect upon the effective date of the act, but the actual starting dates may be established by the Spokane County Commissioners upon the request of the superior court.

The number of statutorily authorized judicial positions in Snohomish County is increased from 13 to 15. The new positions take effect January 1, 1998, but the actual starting dates may be established by the Snohomish County council upon request of the superior court and by recommendation of the Snohomish County executive.

The number of statutorily authorized judicial positions in Pierce County is increased from 19 to 25. One of the additional judicial positions will take effect January 1, 1998, two will take effect on January 1, 1999, and two will take effect on January 1, 2000. The actual starting dates may be established by the Pierce County council upon request of the superior court and recommendation of the Pierce County executive.

**Votes on Final Passage:**

House	95	0	
Senate	48	0	(Senate amended)
House	91	0	(House concurred)

**Effective:** July 27, 1997

**HB 1400**

C 53 L 97

Removing a termination date in the bank statement rule.

By Representatives Benson, L. Thomas, Wolfe, Zellinsky, Sheahan and Appelwick.

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** In 1993, Uniform Commercial Code Articles 3 and 4 were substantially revised in accordance with recommendations of the National Conference of Commissioners on Uniform State Laws. One of the provisions in Article 4 relates to information that must be provided on a bank checking account statement. A financial institution must either: (1) provide the check paid or a copy of the check; or (2) provide information on the statement sufficient to allow the customer to reasonably define the check paid. Until January 1, 1998, the statement provides sufficient information if it provides the check number, amount, date of payment, and a phone number the customer may call to request a copy of the check.

**Summary:** The January 1, 1998 expiration date is deleted from the Uniform Commercial Code provision establishing what information is sufficient on a bank checking account statement. A checking account statement will continue to provide sufficient information if it provides the check number, amount, the date of payment,

## SHB 1402

and a phone number the customer may call to request a copy of the check.

### Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 27, 1997

## SHB 1402

C 158 L 97

Providing additional alternatives for financing street, road, and highway projects.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Ogden, Carlson, Fisher, Blalock, O'Brien and Doumit).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Cities and counties are permitted to contract with property owners for street improvements which are required as a prerequisite to further property development. For up to 15 years, partial reimbursement to those property owners may be required from other property owners who are determined to have benefitted from those improvements and who did not contribute to the original cost of the street projects. A county, city or the state Department of Transportation (DOT) may also join in the financing of a project and be reimbursed like owners of real estate.

**Summary:** A city, town, or county is authorized to create an assessment reimbursement area on its own initiative, without participation of a private property owner, to finance the costs and to receive reimbursements from later development. The DOT is also authorized to be the sole participant in such agreements.

### Votes on Final Passage:

House	94	0
Senate	47	0

Effective: July 27, 1997

## EHB 1411

FULL VETO

Authorizing the collection of fees for consumer loans.

By Representatives L. Thomas, Grant, Zellinsky, DeBolt and Benson.

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** Consumer loan companies are regulated by state law. The maximum interest rate consumer loan companies may legally charge is 25 percent per year. Other

statutory provisions limit the amount of fees these companies may charge for originating a loan; the fee may not exceed 4 percent of the first \$20,000 and 2 percent of any amount loaned above \$20,000. Loan companies may charge a fee for the costs of title insurance, appraisals, and the recording, reconveying, and releasing of security-related documents. Fees may not be collected, except appraisal fees, unless a loan is made.

**Summary:** The loan origination fee limitation is removed for real estate loans made by consumer loan companies until June 30, 2002. After that date, the current limitation of 4 percent of the first \$20,000 and 2 percent thereafter will be reinstated. The Department of Financial Institutions will monitor and report to the Legislature on the impact of deregulating the origination fees for real estate loans made by consumer loan companies. The report will be made by October 1, 2001.

Loan companies may charge fees for the actual costs for any third party providing goods or services in connection with the preparation of the borrower's loan. Provisions specifically allowing fees for the recording, reconveying, and releasing of security-related documents are removed.

### Votes on Final Passage:

House	70	25
Senate	49	0

## VETO MESSAGE ON HB 1411

April 25, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Engrossed House Bill No. 1411 entitled:

"AN ACT Relating to authorizing the collection of fees in connection with making consumer loans;"

This legislation would have deregulated the origination fee and removed restrictions on third-party fees that consumer loan companies may charge on loans secured by real estate.

While I am supportive of creating a favorable climate for Washington's financial institutions, I am concerned about the impact this legislation might have had on unsophisticated or high-risk borrowers.

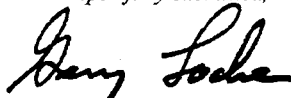
Consumer loan companies enjoy the benefits of the Consumer Loan Act, and have historically existed to make credit available to high-risk borrowers. However, many consumer loan companies are moving away from small loans secured by personal property or unsecured, and are competing with banks for real-estate secured loans.

EHB 1411 would blur the distinction between traditional mortgage lenders and consumer loan companies. I am concerned that unsophisticated consumers or those with poor credit could be susceptible to the kind of financial disadvantages the original legislation was designed to protect them from.



*For these reasons, I have vetoed Engrossed House Bill No. 1411 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**EHB 1417**

C 2 L 97

Reducing total state levy amounts by 4.7187 percent.

By Representatives B. Thomas, Carrell, Caines, Dyer, L. Thomas, Mulliken, Sheldon, Robertson, Thompson, Cooke, Mielke and Van Luven.

**Background:** The state annually levies a statewide property tax. The state property tax is limited to a rate no greater than \$3.60 per \$1,000 of market value. The state property tax is also limited by the 106 percent levy limit. The 106 percent levy limit requires reduction of property tax rates as necessary to limit the total amount of property taxes received by a taxing district. The limit for each year is the sum of (a) 106 percent of the highest amount of property taxes levied in the three most recent years, plus (b) an amount equal to last year's levy rate multiplied by the value of new construction.

The state property tax for collection in 1996 was reduced 4.7187 percent by legislation enacted during the 1995 session. This reduction affected only the 1996 levy. Therefore, for purposes of the 106 percent limit, state levies after 1996 will be set at the amount that would otherwise be allowed as if the reduction in 1996 had never occurred.

**Summary:** The one-time 4.7187 percent reduction of the 1996 state property tax is extended to 1997. In addition, a 4.7187 percent reduction in 1998 is referred to the voters. If approved by the voters, the reduced 1998 levy will be used for future state levy calculations under the 106 percent levy limit.

**Votes on Final Passage:**

House	61	32
Senate	30	17

**Effective:** January 30, 1997 (Section 1)  
July 27, 1997 (Sections 3-5)  
December 4, 1997 (Section 2, upon voter approval at the next general election)

**SHB 1418**

**FULL VETO**

Eliminating pooling of the resource management cost account and removing reference to agricultural college lands.

By House Committee on Natural Resources (originally sponsored by Representatives Buck and Regala; by request of Commissioner of Public Lands and Department of Natural Resources).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** In 1996, the Legislature asked the attorney general to render an opinion on a number of questions related to the management of the state's federal grant lands and forest board transfer lands. The Legislature also asked the attorney general to consider the validity of existing statutes on the management of these lands.

The attorney general completed the requested opinion in August 1996. The opinion identifies two areas of current law that may be constitutionally defective. The first area involves the accounting of trust funds within the resource management cost account, the account used for management expenses for the federal grant lands. In 1993, the Legislature enacted a law that allows for the pooling of funds within this account. The attorney general opinion determined that there must be a separate accounting of each individual trust's revenues and expenses and that the law enacted in 1993 does not meet this requirement.

The second subject area identified by the attorney general opinion relates to the payment of management expenses for one particular trust, the trust established for the support of an agricultural college. This trust provides support to Washington State University (WSU). The Legislature asked the attorney general if expenses for the management of these particular trust lands could be charged against the proceeds from the sale of these lands or from the sale of resources from these lands. The attorney general analyzed the provisions of the Washington Enabling Act and a second piece of federal legislation dealing with land grants for agricultural colleges, the Morrill Act of 1862. The opinion determined that the Morrill Act prohibits the state from deducting the expenses of managing the agricultural college lands from proceeds derived from the sale of those lands including proceeds from the sale of resources that are part of the lands. The opinion notes that expenses for the management and administration of the agricultural college lands must come from the treasury of the state.

**Summary:** References to pooling within the resource management cost account are removed. Funds in this account derived from sales, leases, and other revenue-generating activities on the common school lands, university lands, scientific school lands, normal school lands,

**ESHB 1419**

capitol building lands, and institutional lands may be expended by the Department of Natural Resources only for managing and administering state lands of the same trust.

The costs and expenses of managing and administering the agricultural college lands may not be deducted from proceeds derived from the sale of agricultural college lands including the sale of resources that are part of those lands. The gross proceeds from leases, sales, contracts, licenses, permits, easements, and rights of way on the agricultural college lands may not be used to defray the costs or expenses of managing these lands. Instead, the Board of Natural Resources must determine the amount necessary for the management and administration of the agricultural college lands. The Department of Natural Resources must bill the state for this amount, and the state must pay the department. The billing may not exceed 22 percent of the gross proceeds received by the beneficiary. Moneys received by the department from this billing will be deposited into the resource management cost account.

**Votes on Final Passage:**

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)

Conference Committee

Senate	32	8
House	98	0

**VETO MESSAGE ON HB 1418-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1418 entitled:

“AN ACT Relating to eliminating the pooling of the resource management cost account and removing reference to agricultural college lands;”

Substitute House Bill No. 1418 would bring state law into compliance with the federal Morrill Act by dedicating all of the revenue from the state agricultural college lands to this federally granted trust. Currently, up to 25 percent of the revenue from these lands is deposited into the Resource Management Cost Account (RMCA) and are used by the Department of Natural Resources (DNR) to manage these lands. Instead of using the RMCA, DNR would be directed to bill the state for its costs in managing these lands. However, the final legislative budget did not provide any funding to pay for these costs.

It is with great regret that I veto this legislation. However, if this legislation were signed, DNR would not have any funding to carry out management of these trust lands. Although I have vetoed this legislation I am committed to working with Washington State University, DNR, and the legislature to develop a long-term funding source for managing the agricultural college trust.

*For this reason, I have vetoed Substitute House Bill No. 1418 in its entirety.*

Respectfully submitted,

Gary Locke  
Governor

**ESHB 1419**

C 213 L 97

Revising provisions for solid waste permits.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Linville and Regala; by request of Department of Ecology).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Local health jurisdictions are responsible for issuing permits to solid waste facilities. In issuing permits, the local health department must determine if the solid waste facility meets local health and zoning requirements, the local solid waste management plan, and all applicable state and federal solid waste laws and regulations. Solid waste facilities are required to renew permits annually. A local health jurisdiction is not required to hold a public hearing prior to making a permit decision. The term “solid waste handling facility” refers to all types of solid waste facilities, including recycling centers, transfer stations, drop-boxes, landfills, and incinerators.

**Summary:** A local health jurisdiction is authorized to renew a permit for an existing solid waste handling facility for a period of one to five years. The decision on the duration of the permit is to be determined by the local health jurisdiction issuing the permit. A local health jurisdiction may hold a public hearing prior to issuing a permit for any solid waste handling facility if the term of the permit is longer than one year. A solid waste facility that is substantially modified must obtain a permit.

The Department of Ecology, in conjunction with the Solid Waste Advisory Committee, is directed to recommend regulatory changes to various categories of solid waste materials to ensure that the regulations better reflect the risks posed by these materials. The Department of Ecology must submit these recommendations to the Legislature by December 15, 1997.

**Votes on Final Passage:**

House	96	0
Senate	45	0

**Effective:** July 27, 1997

**HB 1420**

C 333 L 97

Modifying local public health financing.

By Representatives McDonald, Regala, Huff, Talcott, Conway, Smith, Mitchell, Fisher and Bush.

House Committee on Appropriations

Senate Committee on Ways & Means

**Background:** The Health Services Act of 1993 amended the distribution of motor vehicle excise taxes (MVET) between cities and counties for local public health purposes. The MVET distribution percentage to cities for public health was reduced by 2.95 percent and the counties' distribution percentage was increased by the same percentage. The change in the city and county distribution percentages was originally scheduled to take effect July 1, 1995. An analysis using the revised distribution percentage identified that the 2.95 percent shift from cities to counties would result in certain cities contributing less funding to support local public health services than they were providing before the 2.95 percent shift. The effect was that certain local health jurisdictions would receive less funding for public health services using the new distribution percentages. The statewide funding shortfall was estimated to be \$2.25 million. The provision of \$2.25 million would enable county health departments and local public health districts to continue current levels of service after July 1, 1995, the effective date of the shift.

In 1995, the Legislature attempted to resolve the county and local public health district funding problem by establishing a funding benchmark that would ensure that no city contribution was less than the calendar year 1995 level expended for public health purposes. The implementation date of the revised distribution percentages was also extended to January 1, 1996. The 1995-97 Appropriations Act contained the funding to ensure that city contributions met the required calendar year 1995 levels. This was accomplished by a \$2.25 million state treasurer transfer from the state public health services account to the county public health account. The county public health account was created to provide a means to distribute funds to local public health entities. The 1995 legislation did not address the inclusion of populations in cities that were in the process of incorporating at the time the 2.95 percent shift problem was being corrected. The populations in these newly incorporated cities were not recognized in the new distribution formula and, as a result, certain local public health jurisdictions were still underfunded.

The director of the Department of Community, Trade and Economic Development is required to certify the amounts for distribution to each local public health jurisdiction using actual 1995 city public health contributions as a base.

A portion of all MVET receipts are deposited into the county sales and use tax equalization account for alloca-

tion by the State Treasurer to counties meeting certain criteria. After all county equalization allocations are made, the unexpended balance from the county sales and use tax equalization account is deposited into the state general fund.

**Summary:** Populations in newly incorporated cities are included in the calculation of city contributions to counties for public health purposes. (This corrects the funding calculation adopted by the 1995 Legislature.) The unexpended balance in the county sales and use tax equalization account is used to cover the cost of including the excluded city populations in the local public health funding calculation. The two local public health jurisdictions affected by this funding correction are Seattle/King and Tacoma/Pierce. After the allocation for local public health, the remaining balance in the county sales and use tax equalization account is deposited into the state general fund.

**Votes on Final Passage:**

House 88 9

Senate 44 5

**Effective:** July 1, 1997

**E2SHB 1423**

**PARTIAL VETO**

C 351 L 97

Strengthening the criminal justice training commission.

By House Committee on Appropriations (originally sponsored by Representatives Sterk, Costa, Sheahan, McDonald, Koster, Robertson, Carrell, Sherstad, Hickel, Delvin, L. Thomas, O'Brien and Conway).

House Committee on Criminal Justice & Corrections

House Committee on Appropriations

Senate Committee on Law & Justice

Senate Committee on Ways & Means

**Background:** The Criminal Justice Training Commission was established in 1974 for the primary purpose of providing basic law enforcement training, corrections training, and educational programs for criminal justice personnel, including commissioned officers, corrections officers, fire marshals, and prosecuting attorneys.

**Membership.** The commission consists of 12 members who are selected as follows:

- the Governor appoints two incumbent sheriffs and two incumbent chiefs of police;
- the Governor appoints one person employed in a county correctional system and one person employed in the state correctional system;
- the Governor appoints one incumbent county prosecuting attorney or municipal attorney;
- the Governor appoints one elected official of a local government;

## E2SHB 1423

- the Governor appoints one private citizen; and
- the three remaining members are the attorney general, the special agent in charge of the Seattle office of the Federal Bureau of Investigation, and the chief of the state patrol.

**Training.** Basic law enforcement officer training is generally required of all full-time commissioned law enforcement employees of the state. The training consists of a 440-hour program covering a wide variety of subjects, including constitutional and criminal law and procedures, criminal investigation, firearms training, and communication and writing skills. The law enforcement training is available only to persons employed as commissioned law enforcement officers and must be commenced within the first six months of employment of each law enforcement officer.

**Course Fees.** Although the commission is funded by appropriations from the public safety and education account, it provides training to criminal justice personnel at no cost.

**Training Evaluation.** In 1996, the Legislature directed the Washington Association of Sheriffs and Police Chiefs to review the commission along with its duties and administration. The intent of this study was to review the costs associated with providing training while raising the standards of quality law enforcement training.

**Investigation Training on Cases Involving Children.** The commission does not provide an intensive training session on the investigation of child abuse and neglect cases.

**Summary:** Various changes are made in the Criminal Justice Training Commission and its training programs.

**Membership.** The membership of the commission is increased by four positions for a total of 16 members. The four members are appointed by the Governor and must be peace officers representing local law enforcement agencies. Peace officers must have a rank of sergeant or below and be currently serving as a training officer.

**Training.** All law enforcement personnel hired, transferred or promoted effective January 1, 1999, are required to complete the core training requirements within six months unless the employee receives a waiver from the commission. All other position-related training must be completed within one year after the core training.

**Course Fees.** The commission must provide room and board for attendees who do not live within 50 miles of the training center.

**Training Evaluation.** Two separate boards are established to make recommendations to the commission regarding law enforcement training: the Board on Law Enforcement Training Standards and Education, and the Board on Correctional Training Standards and Education.

The law enforcement board will consist of 13 members:

- three members, recommended by the Washington Association of Sheriffs and Police Chiefs, must be from a county law enforcement agency;
  - three members, recommended by the Washington Association of Sheriffs and Police Chiefs, must be from city police agencies;
  - one member representing community colleges and one member representing four-year colleges;
  - one member representing tribal law enforcement in Washington; and
  - four members representing and recommended by the council of police officers.
- The correctional board will consist of 14 members:
- three members from the state correctional system of whom one must be employed as a front line correctional officer;
  - three members from the county correctional system of whom one must be employed as a front line correctional officer;
  - two members from the juvenile corrections or probation system (one at the state level and one at the county level);
  - two members who are employed in community corrections;
  - one member representing community colleges and one member representing four-year colleges; and
  - two members with experience and interest in correctional training standards and education.

Each board must report to the commission at the end of each fiscal year regarding the effectiveness of training and education programs for criminal justice personnel. The members of both boards are appointed for six year term limits. Members participating on these boards are eligible to receive reimbursement for their travel expenses to attend board meetings.

Every two years the commission must submit an evaluation of its training program to the Legislature.

**Investigation Training on Cases Involving Children.** The commission must provide an intensive training session on the investigation of child abuse and neglect cases.

### Votes on Final Passage:

House	94	0	
Senate	45	0	(Senate amended)
House	90	1	(House concurred)

**Effective:** May 13, 1997

**Partial Veto Summary:** The provision that increases the membership of the Criminal Justice Training Commission by four (law enforcement) positions for a total of 16 members is vetoed.

### VETO MESSAGE ON HB 1423-S2

May 13, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Engrossed Second Substitute House Bill No. 1423 entitled:

"AN ACT Relating to criminal justice training;"

The creation of training standards and education boards for law enforcement and corrections will give the Criminal Justice Training Commission a valuable new tool to develop and evaluate training programs for these important public employees. Providing for training and certification of supervisory and management personnel will ultimately result in better law enforcement and greater public safety. I am particularly pleased with the provisions of 2SHB 1423 that require intensive training for investigating cases of child abuse and neglect.

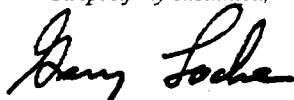
Section 1 of the bill would expand the Training Commission from twelve to sixteen members by the addition of four "rank and file" law enforcement officers. The commission has a broad mission, providing training to corrections and jail personnel, county detention personnel, prosecutors and public defenders, in addition to law enforcement officers. I strongly support the presence of line officers on the Training Commission, however, four is too many.

Currently, four of the 16 members of the Training Commission are from law enforcement, two sheriffs and two police chiefs. Four additional law enforcement representatives would upset the balance of the Training Commission.

For these reasons, I have vetoed section 1 of Engrossed Second Substitute House Bill No. 1423.

With the exception of section 1, I am approving Engrossed Second Substitute House Bill No. 1423.

Respectfully submitted,



Gary Locke  
Governor

**HB 1424**

C 129 L 97

Revising provisions for kidney dialysis centers.

By Representatives Skinner and Murray.

House Committee on Health Care

Senate Committee on Health & Long-Term Care

**Background:** The 1995 Legislature, required various health care settings to be considered a new category of health care facility called health care entities. These new entities include kidney dialysis centers. Kidney dialysis centers are included as health care entities regulated by the Board of Pharmacy, and are required to be licensed by the Department of Health to purchase, administer, and dispense legend drugs. Kidney dialysis centers use only a few different types of drugs for treating dialysis patients. These drugs are regulated by other statutory and administrative rules and are not considered addictive.

The Board of Pharmacy has reported that the costs of licensing and regulation of dialysis centers can be considerable without bringing a proportional increase in public safety. Kidney dialysis centers have served dialysis patients for over thirty years without a significant incidence of harm to patients involving drugs. The board has not received any information that drug utilization by kidney

dialysis centers has resulted in significant harm to any patient.

**Summary:** Kidney dialysis centers are no longer considered health care entities requiring licensing and regulation by the Department of Health.

**Votes on Final Passage:**

House 95 0

Senate 46 0

**Effective:** July 27, 1997

**SHB 1425**

C 376 L 97

Adopting the recommendations of the alternative public works methods oversight committee.

By House Committee on Capital Budget (originally sponsored by Representatives Romero, D. Schmidt, Scott and Chopp).

House Committee on Capital Budget

Senate Committee on Government Operations

**Background:** Most public works construction in Washington is performed by private firms. State and local governments contract with private architectural and construction companies for the design and construction of facilities using specific procedures designated in statute.

There are three primary public works contracting methods used in Washington: design-bid-build, design-build, and general contractor/construction manager (GC/CM).

**Design-Bid-Build:** Design-bid-build, the traditional contracting method used for most projects, is a sequential form of contracting that separates the design phase from the construction phase of a project. Under design-bid-build, a government agency contracts with an architectural and engineering firm to design a facility. After the plans and specifications for the facility are complete, the project is put out to public bid, and a construction contract is awarded in lump sum to the lowest responsive bidder.

**Design-Build:** Design-build is an alternative contracting method that melds design and construction activities into a single contract. The government agency contracts with a single firm to both design and construct the facility based on the needs identified by the agency. Selection of the firm is based on a weighted scoring of factors, including firms' qualifications and experience, project proposals, and bid prices.

**General Contractor/Construction Manager (GC/CM):** GC/CM is an alternative contracting method that utilizes the services of a project management firm that bears significant responsibility and risk in the contracting process. As with design-bid-build, the government agency contracts with an architectural and engineering firm to design a facility. The agency also contracts with a GC/CM firm to assist in the design of the facility, manage the construc-

tion of the facility, act as the general contractor, and guarantee that the facility will be built within budget. The GC/CM firm may not perform construction work on the project. When the plans and specifications for a project phase are complete, the GC/CM firm subcontracts with construction firms to construct that phase. Initial selection of GC/CM finalists is based on the qualifications and experience of the firm. Final selection is based on bid price of GC/CM fees. The selection of subcontractors by the GC/CM is based solely on bid price. The GC/CM must specify contract requirements for minority and women enterprise participation in bid packages that exceed 10 percent of the project cost. Subcontractors who bid on bid packages valued over \$200,000 must post a bid bond, and if awarded the contract, a performance and payment bond.

The vast majority of public works projects use the traditional design-bid-build contracting method. Comparatively, design-build has been used to only a limited extent in Washington. Under explicit statutory authority, port districts have used design-build for over two decades to construct industrial buildings and equipment. The Department of General Administration (GA) and state universities have also used design-build for a small number of projects based upon various legal interpretations of the competitive bidding statutes. The GA used design-build to construct three new state agency headquarters buildings in Olympia in the late 1980's and early 1990's. State universities have used design-build to construct student housing and pre-engineered/pre-manufactured buildings on their campuses.

GC/CM was first authorized in Washington in 1991. At that time, the GA and the Department of Corrections (DOC) were permitted to use GC/CM on a pilot basis to construct prison facilities valued over \$10 million. Two prison facilities were constructed using GC/CM in the early 1990's: the Airway Heights Corrections Center, and the expansion of the Washington Corrections Center for Women at Purdy. In 1994, the authorization to use GC/CM for prison projects was extended to June 30, 1997, and expanded to include up to two pilot projects valued between \$3 million and \$10 million.

During the 1994 legislative session, a consortium of state agencies and local governments requested that the use of GC/CM be expanded to other agencies and that design-build be explicitly authorized in statute for agencies other than ports. The Legislature responded to this request by authorizing three state agencies and nine local governments to use GC/CM and design-build for a limited set of projects on a pilot basis through June 30, 1997.

#### Authorized Agencies

1. The Department of General Administration (for projects in addition to prisons).
2. The University of Washington.
3. The Washington State University.
4. A city with a population over 150,000 (currently Seattle, Spokane and Tacoma).

5. A county with a population over 450,000 (currently King, Pierce and Snohomish).

6. A port district with a population over 500,000 (for GC/CM only) (currently the Port of Seattle and the Port of Tacoma).

7. A Public Facilities District for construction of a baseball stadium.

#### Authorized Projects

1. Design-Build: Projects valued over \$10 million where construction activities are highly specialized, the project design is repetitive in nature, or program elements of the project do not involve complex functional interrelationships.

2. GC/CM: Projects valued over \$10 million where the project involves complex scheduling, construction occurs at an existing facility that must continue to operate during construction, or where involvement of the GC/CM firm during design is critical to the success of the project.

An Agency must follow a series of procedural requirements in order to use design-build and GC/CM under the 1994 legislation. First, an agency must advertise its intention to use one of the alternative methods and conduct a hearing to receive public comment. An agency decision to use an alternative method may be appealed to superior court within 30 days of the decision. Second, an agency must use specified procedures and criteria for selecting design-build and GC/CM firms. Third, an agency must follow a series of project management and contracting requirements to ensure that the project is adequately staffed, and that contracting safeguards, such as adequate budget contingencies, are provided for.

There are currently 16 GC/CM and two design-build projects proceeding under the 1994 legislation, with a combined value of \$1.25 billion. Most of the projects are in the early stages of design or construction.

The 1994 legislation created a temporary independent oversight committee to review the utilization of design-build and GC/CM. The committee is composed of representatives from state and local agencies, the construction and design industries, labor organizations, and four members of the Legislature, one from each caucus. The committee report, issued on January 21, 1997, recommended that the authorization to use the alternative methods on a pilot basis be extended for four years, and that certain modifications be made to the alternative contracting procedures to increase the efficiency and effectiveness of the methods.

**Summary:** The authorization to use the design-build and GC/CM public works contracting methods is extended from June 30, 1997, to June 30, 2001. Changes are made to agency and project eligibility criteria, and the administrative and contracting procedures required under the alternative methods.

**Public Comment Procedures:** An agency may use a public comment period in lieu of a public hearing to receive public comment on the decision to use an alternative

method. The agency must hold a public hearing if it receives significant adverse comments during the public comment period, then it must hold a public hearing.

**Design-Build Agency Eligibility:** The single-project restriction on the use of design-build by the Department of General Administration is eliminated. A port district with a population greater than 500,000 is permitted to use the new design-build procedures created in 1994 in addition to the design-build procedures they have traditionally been authorized to use.

**Design-Build Project Eligibility:** An agency may use design-build on projects valued over \$10 million where regular interaction and feedback from facilities users and operators during design is not critical to an effective design. This replaces the authorization to use design-build on projects where program elements of the design are simple and do not involve functional interrelationships. Two new types of design-build projects are authorized: construction of pre-engineered metal buildings or prefabricated modular buildings regardless of cost; and construction of new student housing projects valued over \$5 million. An agency may also use design-build on projects where the agency provides preliminary engineering and architectural drawings as part of the request for proposals.

**Design-Build Contractor Selection:** An agency may score design-build proposals using a system that measures quality and technical merits on a unit price basis. An agency may also base the final selection of a design-build firm on the lowest responsive bid when all firms are determined to be capable of producing plans and specifications that meet project requirements. Prospective design-build firms must submit a copy of their accident prevention program as part of their proposals. An agency may consider the location of a firm when evaluating proposals.

**General Contractor/Construction Manager (GC/CM) Contractor Selection:** A prospective GC/CM firm must submit a copy of its accident prevention program as part of its proposals. An agency may base the final selection of a GC/CM firm on a weighted scoring of qualifications, experience, project proposals, and bid prices. Language is added suggesting that an agency should select a GC/CM firm early in the life of the project, and in most situations no later than the completion of schematic design.

**GC/CM Self-Performance of Construction Work:** GC/CM firms are permitted to bid on subcontract work under the following conditions: the project is valued over \$20 million; the work is customarily performed by the company; the bid opening is managed by the agency; the GC/CM publishes its intention to bid in the bid solicitation; and the total value of the subcontract work performed by the GC/CM is less than 20 percent of the project construction cost.

**GC/CM Subcontracting Procedures:** Agencies and GC/CMs may prequalify subcontractors based on a firm's performance in meeting time, budget, and specification requirements on previous projects. A bidder on a subcontract bid package valued over \$100,000 must submit, as

part of the bid or within one hour after the published bid submittal time, the names of subcontractors whose subcontract amount is more than 10 percent of the bid package price and with the whom the bidder, if awarded the contract, will subcontract for performance of the work designated. The requirement that a GC/CM specify contract requirements for minority and women-owned business participation in bid packages exceeding 10 percent of the project cost is eliminated. Instead a GC/CM must submit a plan for approval by the agency, in consultation with the Office of Minority and Women's Business Enterprises, or the equivalent local agency, that equitably spreads women and minority enterprise opportunities to as many firms in as many bid packages as is practicable. The threshold for mandatory subcontractor bid, performance, and payment bonds is raised from \$200,000 to \$300,000.

**Demonstration Projects:** An authorized agency is permitted to use GC/CM and design-build on demonstration projects valued between \$3 million and \$10 million. The GA is authorized to use the alternative methods on up to three demonstration projects; all other agencies may use the alternative methods on one demonstration project. An agency must give weight to a proposer's experience working on projects valued between \$3 million and \$10 million when selecting a GC/CM or design-build firm for a demonstration project. A city that supplies water to over 350,000 people may use the design-build procedure for one water system demonstration project valued over \$10 million. If an agency does not use its demonstration project authorization, it may transfer its authority to another authorized agency.

**Oversight Committee:** Representatives from the Office of Minority and Women's Business Enterprises and subcontractors are added to the oversight committee. The Governor is directed to maintain a balance between public agencies and the private sector when making appointments to the oversight committee. The committee is directed to pursue the development of a mentoring program for expansion of GC/CM and design-build to other agencies. The committee is also authorized to conduct a review of traditional public works contracting procedures used by state agencies and municipalities.

**Votes on Final Passage:**

House	96	1	
Senate	39	10	(Senate amended)
House	93	4	(House concurred)

**Effective:** July 1, 1997

## SHB 1426

C 130 L 97

Revising provisions for liens filed by the department of social and health services.

By House Committee on Commerce & Labor (originally sponsored by Representatives Bush, McMorris and Dickerson; by request of Department of Social and Health Services).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Industrial Insurance Liens. When a person accepts public assistance, the Department of Social and Health Services (DSHS) has a statutory right to be reimbursed for the assistance paid if industrial insurance time-loss compensation (temporary total disability compensation) is due to the recipient for the same period.

The department's reimbursement right is secured by a lien up to the amount of time-loss compensation or the public assistance, whichever is less.

The DSHS may assert the lien by serving a signed statement of the lien and a notice to withhold and deliver with the director, or an employee in the director's office, of the Department of Labor and Industries (DLI) or, if applicable, with an employer who is self-insured for industrial insurance. The notice must identify the recipient and make a demand to withhold and deliver the amount claimed. The statute permits personal service or service by regular mail.

Notice of the lien must also be sent to the recipient by certified mail no later than the next business day after the notice is mailed or delivered to the DLI or employer.

The director of the DLI must deliver to the secretary of the DSHS the claimed funds that the director may hold for time-loss compensation payable to the recipient during the period covered by the lien. The funds must be delivered immediately after a final determination of the recipient's entitlement to time-loss compensation. In practice, the DSHS has recovered time-loss compensation that was provisionally granted to a worker pending a final determination.

A recipient who is aggrieved by the action against his or her time-loss compensation must file a notice requesting a hearing within 28 days after the notice to withhold and deliver has been mailed to or served on the DLI.

Child Support Liens. The DSHS also has lien rights to enforce collection of child support debts. The department may serve the liens and notices to withhold and deliver by personal service or certified mail.

Collection Of Debt. The DSHS must commence action to collect overpayments and other debt due to the department within six years of notice of overpayment. The department is authorized to accept offers of compromise on disputed claims and may write off debts when it is no longer cost-effective to pursue collection.

**Summary:** Industrial Insurance Liens. The Department of Social and Health Services' right to recover time-loss benefits is for the purpose of avoiding duplicate benefit payments. Language is deleted that refers to the amount furnished to the recipient for the period when time-loss is payable.

In addition to personal service and regular mail, the DSHS may serve the statement of lien and the notice to withhold and deliver by electronic means. The statement does not have to be received by a specified employee of the Department of Labor and Industries. Requirements are repealed for signing the statement of lien and notice to withhold and deliver and for including a demand to withhold and deliver the claimed sum.

The statement of lien sent to the public assistance recipient must be mailed within two days, rather than by the next business day, after the notice is mailed or transmitted by the DSHS.

The provision requiring the director of the DLI to deliver funds that are in the director's possession is modified to specify that the funds must be time-loss compensation payable to the recipient. The director must deliver from funds currently in the director's possession or from any funds that might come into the director's possession as time-loss for the recipient. These provisions also apply to self-insured employers. The requirement for a final determination of time-loss compensation entitlement is deleted.

A recipient who wishes to request a hearing concerning the DSHS recovery of his or her time-loss compensation may file a hearing application within 28 days after the notice was mailed to the recipient, instead of within 28 days after the notice was mailed to the DLI. A new provision is added permitting a hearing if the applicant files a hearing application more than 28 days after, but within one year of, the date the notice was mailed and can show good cause for not filing within 28 days. Collection actions may continue until good cause is shown.

Child Support Liens. An additional method is added for serving liens and notices to withhold and deliver to enforce child support collections. These liens and notices may be served by electronic means if there is an agreement between the DSHS and the party receiving the notice.

Collection Of Debt. The DSHS must report annually to the House and Senate Commerce & Labor Committees, the Senate Ways & Means Committee, and the House Appropriations Committee the amount of overpayment and other debt to the department that is due to the department and the amount of debt that has been written off by the department as no longer cost-effective to pursue. The report must include both cumulative information and annual information for the previous five fiscal years.

**Votes on Final Passage:**

House	96	1
Senate	47	0

**Effective:** July 27, 1997



**SHB 1429**

C 159 L 97

Penalizing cigarette discard.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Sump, O'Brien, Sullivan, Mielke, Mulliken and Sherstad).

House Committee on Agriculture & Ecology  
Senate Committee on Natural Resources & Parks

**Background:** The penalty for littering is a civil infraction. Littering in amounts of one cubic foot or less is subject to a penalty of \$50. Littering in amounts greater than one cubic foot is subject to penalty of up to \$250 and a cleanup fee of \$25 per cubic foot of litter.

**Summary:** The penalty for litter infractions involving a cigarette, cigar, or other tobacco product is increased to \$500, if the illegally discarded object is capable of starting a fire.

**Votes on Final Passage:**

House	97	0
Senate	45	0

**Effective:** July 27, 1997

**2SHB 1432**

C 131 L 97

Modifying the adoption support reconsideration program.

By House Committee on Appropriations (originally sponsored by Representatives Cooke, Tokuda, Kastama and Dickerson; by request of Department of Social and Health Services).

House Committee on Children & Family Services  
House Committee on Appropriations  
Senate Committee on Human Services & Corrections

**Background:** The Department of Social and Health Services provides post-adoption support through the adoption reconsideration program to individuals who adopt children. The program provides medical and counseling services for adopted children who lived in foster care and had a physical or mental handicap at the time of their adoption.

**Summary:** The adoption reconsideration program is expanded to cover children in pre-adoption placements funded by the Department of Social and Health Services and adopted children who are at high risk of future physical or mental handicap or emotional disturbance as a result of conditions to which they were exposed prior to the adoption.

**Votes on Final Passage:**

House	94	0
Senate	44	0

**Effective:** July 27, 1997

**SHB 1433**

C 349 L 97

Leasing property to counties for correctional facilities.

By House Committee on Capital Budget (originally sponsored by Representatives Sump, McMorris, Ballasiotes, DeBolt, Sheahan, Talcott, Quall, D. Sommers, Honeyford, Chandler, Schoesler, Crouse, Mastin and Mielke).

House Committee on Capital Budget  
Senate Committee on Human Services & Corrections

**Background:** Many counties need additional capacity for housing juvenile offenders and adult inmates. Regional projects have been proposed under which groups of counties would act together in acquiring and operating shared facilities.

One such regional project the Martin Hall project, on the Medical Lake campus of Eastern State Hospital. Nine counties have formed a consortium and have negotiated an agreement with the Department of Social and Health Services (DSHS) to lease Martin Hall for renovation into a shared facility for housing the counties' juvenile offenders. The renovation of Martin Hall is under construction and is projected to be completed for occupancy in the fall of 1997. The \$6 million renovation project, financed by bonds issued by Stevens County, will house 52 juvenile offenders. The debt payments on the bonds and the operating costs of the facility will be shared by the participating counties on the basis of the number of beds used in the facility.

Legislation adopted in 1996 authorized the lease of property for uses such as the Martin Hall renovation project but stipulated that an initial lease must not exceed 20 years. The lease cannot charge more than \$1 per year for the land and facility, but the lease may include payment for reasonable operation and maintenance costs of DSHS. If the initial lease is renewed, however, the new lease must charge the fair rental value of the land and the facility. The proceeds from the lease payments must be used for programs at Eastern State Hospital for the long term care of patients with mental disorders.

**Summary:** A 50-year initial lease is authorized at Eastern State Hospital for the Martin Hall project. The current requirement that an initial consortium lease must not exceed 20 years is retained for any other projects.

The requirement that the fair rental value of the facilities be charged after the initial term of a lease expires is retained. However, it is clarified that no charge shall be

## HB 1439

made for improvements paid for by the contracting consortium.

### Votes on Final Passage:

House	97	0	
Senate	44	3	(Senate amended)
House	90	1	(House concurred)

Effective: May 13, 1997

## HB 1439

C 294 L 97

Authorizing counties to set deadlines for petitioning for changes in assessed valuation.

By Representatives B. Thomas, Sherstad, Murray, L. Thomas, Wolfe, Cole, DeBolt and Wensman.

House Committee on Finance  
Senate Committee on Government Operations

**Background:** All real and personal property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law. The tax bill is determined by multiplying the assessed value by the tax rate for each taxing district in which the property is located. County assessors establish new assessed values under a regular revaluation cycle. These values are used for calculating property tax bills to be collected in the following year. Notice of a valuation change is mailed to the taxpayer not later than 30 days after the assessor determines a new value. The assessor must complete revaluations by May 31 of each year.

County boards of equalization provide the first level of appeal for property owners who dispute the assessed value of their properties. A taxpayer may petition the county board of equalization for a change in the assessed valuation placed upon the property by the assessor. This petition must be filed with the board on or before July 1 or within 30 days of the date the value change notice was mailed, whichever is later. When reviewing assessed values, a county board of equalization applies the same standard as the county assessor: true and fair value. True and fair value of property is measured by its market value, which is the amount a willing buyer would pay to a willing seller for the property. In other words, a county board of equalization does not have the power to lower the assessed value of a property below its fair market value. Also, the board is required by law to presume the assessor's valuation is correct, unless a change is warranted by "clear, cogent and convincing evidence."

Appeals of county boards of equalization decisions are taken to the state Board of Tax Appeals.

**Summary:** The legislative authority of a county may provide a limit longer than 30 days but not exceeding 60 days, for taxpayer appeals to the county board of equalization. If a longer limit is adopted, it cannot be changed again for three years.

### Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 1997

## HB 1452

C 14 L 97

Providing definitions concerning title insurers.

By Representatives L. Thomas, Wolfe, Zellinsky, Alexander and Keiser.

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** Title insurance provides protection against financial loss resulting from a defect in an insured title. Under title insurance policies, the title insurance company agrees to indemnify the insured for any financial loss suffered as a result of the transfer of a defective title, subject to exceptions listed in the title insurance policy.

To transact title insurance in Washington, a title insurance company must: (1) be a stock corporation; (2) maintain a complete set of tract indexes for the county in which its principal Washington office is located; and (3) keep on deposit with the Office of the Insurance Commissioner a guaranty fund in an amount established in statute based on the population of the county or counties in which the company does business.

The deposit and other requirements for title insurance companies do not apply to companies that prepare, issue, or certify abstracts of title, provided the companies do not insure the titles.

**Summary:** The differences between an abstract of title, a title policy, and a preliminary title report, commitment, or binder are clarified. An abstract of title is a written representation listing all recorded conveyances, instruments, or documents which, by law, impart constructive notice with respect to the chain of title to real property. An abstract of insurance is not a title policy; a title policy is an agreement to provide title insurance. A preliminary report, commitment, or binder is an offer to issue a title policy.

### Votes on Final Passage:

House	97	0	
Senate	44	0	

Effective: July 27, 1997

**HB 1457**

C 241 L 97

Regulating the issuance and cost of permits and certificates issued by the department of licensing.

By Representatives Chandler, Fisher and Zellinsky; by request of Department of Licensing.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** In 1990, application fees for annual and temporary permits for off-road vehicles, snowmobiles, mopeds, and motorcycles were raised by 25 cents, from \$1 to \$1.25. The application fee for a duplicate certificate of title or certificate of vehicle registration has been \$1.25 since 1990. Statutory references to these fees have not been updated.

The Department of Licensing (DOL) allows travel trailers and campers to be registered for title purposes only, and annual excise taxes are not imposed on these vehicles. Some statutory references are ambiguous or contradict this practice.

Although the term "certificate of license registration" has been abandoned in favor of "certificate of ownership," there are many places in statute that do not use this new terminology.

In 1995, legislation was passed that allowed the DOL to accept title applications on non-standard forms, so long as the form contained all pertinent data as required by the DOL to issue a title. This change was not incorporated in all areas of statute.

There is no process authorized in statute that allows an owner to apply for a duplicate certificate of license registration if the owner has lost the old one.

Before the DOL began using its newer computer system, the department could not process vehicle license renewals any sooner than 45 days prior to the renewal date specified on the license tabs. The DOL's current computer system, the vehicle field system, will allow renewals up to 18 months prior to the renewal date. This would allow persons not expecting to be in the state or country during the 45-day renewal period to register their vehicles up to 18 months in advance. The statute does not permit this flexibility.

Amateur radio operators may purchase special license plates from the DOL, but only for five years. The Federal Communications Commission issues radio operator licenses for 10 years, but the DOL is not authorized to allow special plates beyond five years.

**Summary:** All statutory references to application fees are updated to \$1.25. Conflicting language about travel trailers and campers is clarified to ensure that these trailers and campers may be registered for title purposes only. References to "certificate of license registration" are updated to the current term, "certificate of ownership." The DOL is allowed to accept non-standard title application

forms so long as the form contains all data needed by the DOL to issue a title. A process is established in statute for allowing owners to apply for a duplicate certificate of license registration if the original is lost, destroyed or stolen. Owners are allowed to register their vehicles up to 18 months prior to the renewal date. The DOL may issue special license plates to amateur radio operators for more than five years.

State Parks Department vehicles need not be registered, so long as the vehicles are used for maintenance and operate strictly within the state parks system.

**Votes on Final Passage:**

House	93	0	
Senate	46	0	(Senate amended)
House	91	0	(House concurred)

**Effective:** July 27, 1997

**HB 1458**

PARTIAL VETO

C 432 L 97

Regulating vehicle and vessel licensing.

By Representatives Zellinsky, Fisher and Robertson; by request of Department of Licensing.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The law requiring vehicle dealers to maintain a certain display area for their vehicles was repealed, but references to this display area requirement are still found in the statute regulating wholesale and listing dealers.

The Department of Licensing (DOL) was given the authority to deny a license to any tow truck operator whose application for license is a mere subterfuge to conceal the identity of the real applicant whose license has been denied, suspended or revoked. This law has not been extended to cover vehicle and vessel dealers who attempt to obtain a license by concealing their real identity.

**Summary:** All references to display area requirements are removed to reflect changes made by the Legislature in previous sessions.

The DOL's authority to deny an application to a person attempting to conceal his or her true identity because he or she has had a license denied, suspended or revoked is extended to vehicle and vessel dealers.

The DOL is required to make certain data available to a third party vendor, who in turn will provide excise tax information to car dealers.

Dealers are allowed to obtain vehicle titles directly from lienholders when the lien has been paid off. If the bank does not remit the title within the prescribed time period, the dealers may seek a monetary penalty plus actual damages and fees.

# HB 1459

## Votes on Final Passage:

House	93	0	
Senate	46	2	(Senate amended)
House	90	1	(House concurred)

Effective: July 27, 1997

**Partial Veto Summary:** The Governor vetoed section 7, thereby removing the requirement that the Regional Transit Authority supply taxing district information to private contractors.

## VETO MESSAGE ON HB 1458

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 7, House Bill No. 1458 entitled:

"AN ACT Relating to licensing."

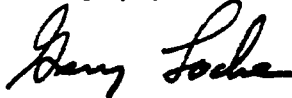
House Bill No. 1458 makes numerous changes in the laws relating vehicle and vessel licensing taxes. However, section 7 of the bill requires the Regional Transit Authority (RTA) to provide excise tax information in a machine readable ASCII text file to a private contractor at no cost. This information would allow the contractor to determine who is subject to the RTA's special excise and use taxes and how much taxes should be paid.

I understand that the intent of section 7 is to ensure that vehicle dealers receive accurate information regarding these taxes at any time, and that they should not be obligated to collect the taxes unless they have accurate and up-to-date information. While I agree with the intent, this section is flawed, overly prescriptive, and unnecessary. By using the word "remittance" the language implies that if accurate information were not supplied by the RTA, taxes already collected by dealers would not have to be forwarded to the state. Further, the RTA does not need the very prescriptive and limiting contracting language contained in section 7 to provide accurate tax information for these purposes.

For these reasons, I have vetoed section 7 of House Bill No. 1458.

With the exception of section 7, House Bill No. 1458 is approved.

Respectfully submitted,



Gary Locke  
Governor

## HB 1459

C 183 L 97

Regulating licensees of the department of licensing.

By Representatives Cairnes, Fisher and Chandler; by request of Department of Licensing.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Proportional registration licensees, motor vehicle fuel licensees, special fuel licensees and aircraft fuel licensees are not required to file notice of bankruptcy with the Department of Licensing (DOL).

The definition of a "preceding year" is different than the definition under the International Registration Plan (IRP), of which Washington is a member.

The DOL bills carriers for the number of months they are required to be registered in Washington, even if the carrier operates in the state for only a portion of the year. However, the statute requires the DOL to bill a carrier for the full 12 months if that carrier seeks to register at any time within the first quarter of the year.

An initial application for proportional registration requires the carrier to estimate the number of miles the carrier expects the fleet to operate during the year. Applicants often grossly underestimate the number of miles they expect to operate during the first year in order to reduce the amount of fees owed to the state.

When the lessor of a truck changes but the truck remains within a fleet, the DOL charges the full foreign fees on the truck as if it were new to the fleet. This results in higher fees charged on that truck's operations and in difficult fee calculations for the DOL. This practice is not in conformance with other IRP jurisdictions, which require fees be paid only for issuance of new credentials.

Notice of cancellation or revocation of proportional registrations is required to be made by certified mail. This procedure is different from the procedures used in the rest of the DOL's vehicle services division, which use an affidavit of first class mail.

Motor vehicle fuel distributors who are entitled to a refund may have the expected refund applied as a credit against any future taxes owed. This carry-forward credit has been identified by the DOL as causing difficulty in accounting and tax computations, and was eliminated for special fuel users during the 1996 legislative session.

The DOL is required to deduct a 50 cent administrative fee on refunds for special fuel users. This results in the administrative fee being charged twice to special fuel users.

**Summary:** Proportional registration licensees, motor vehicle fuel licensees, special fuel licensees, and aircraft fuel licensees are required to file notice of bankruptcy with the Department of Licensing (DOL).

The term "preceding year" is defined to be in conformance with the definition used under the International Registration Plan (IRP).

The requirement that the DOL bill a carrier for a full 12 months if the carrier seeks to register any time within the first quarter is eliminated to conform to current practice, which charges carriers only for the actual months that they will operate in the state.

Carriers having to estimate the mileage they expect for their fleets during the first year of proportional registration must have, as a minimum, an estimate equal to the point-to-point distance between state lines. (This brings the state's policy into compliance with other IRP jurisdictions.)

When the lessor of a truck changes but the truck remains with the fleet, the only fees required are for issuance of new credentials. (This brings the DOL's policy into conformance with other IRP jurisdictions.)

Notice of cancellation or revocation of proportional registrations may be sent by first class mail so long as an affidavit of first class mail is prepared. (This is consistent with notice requirements throughout the vehicle services division of the DOL.)

Motor vehicle fuel distributors will be issued refunds for fuel taxes paid, but will no longer be able to carry forward credits against future taxes owed.

The requirement that the DOL deduct a 50 cent administrative fee on refunds owed to special fuel users is repealed.

#### Votes on Final Passage:

House	93	0
Senate	45	0

Effective: July 27, 1997

## SHB 1464

C 353 L 97

Updating and modifying certain noxious weed provisions.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and Linville; by request of Department of Agriculture).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** The State Noxious Weed Control Board is responsible for preparing an annual listing of noxious weeds based upon the amount of threat that the weeds pose in the state. The board also provides assistance to county noxious weed control boards and weed districts. County noxious weed control boards identify noxious weed infestations, provide technical assistance to landowners, and enforce the noxious weed control laws on private property.

The director of the Department of Agriculture is required to adopt rules with the advice of the State Noxious Weed Control Board designating noxious weed seeds that must be controlled in products or articles to help prevent the spread of noxious weeds. The rules include the maximum amount of noxious weed seeds that are permitted in a product or article. Similar rules must be adopted to control toxic weeds in feed stuffs for animals.

**Summary:** The purpose of the law is to protect all agricultural, natural, and human resources from economic loss and adverse affects, not only economic loss to agriculture.

The director of the Department of Agriculture is required to order a county to activate a county noxious weed control board upon the request of the state board if an infestation of Class A or B noxious weeds occurs in the county.

A requirement that the board members' districts be of roughly equal area is changed so that the county legislative authority may divide the county into five areas that best represent the county's interests. An activated county weed board must meet with a quorum at least quarterly.

Each county weed board is required to hire, or otherwise provide, a weed coordinator. The weed coordinator may be employed on a full-time, part-time, or seasonal basis. The duties of a weed coordinator are fixed by the board but must include offering technical assistance and education, and developing a program to achieve compliance with the weed laws. The board must comply with county personnel policies.

If the director receives a complaint about a county weed board, weed district, or county legislative authority from 50 registered voters within the county, the director may order that entity to respond to the complaint within 45 days with a plan for the control of the noxious weeds cited in the complaint. If the complaint is about Class A or B noxious weeds, and the county legislative authority, county weed board, or weed district does not take action, the director can control the infestation and bring a civil action to recover the expenses of the control work, costs, and attorneys' fees.

Changes are made to the process by which the state board adopts its state noxious weed list. Any person may request the inclusion, deletion, or designation change for any plant during the comment period. The addition or deletion of a weed from the list no longer constitutes a substantial change in a proposed rule-making that requires a new publication of notice and hearing.

The amount of time in which a county weed board must adopt the state noxious weed list and select those weeds from the Class B and C lists for control is extended from 30 days to 90 days. Similarly, the amount of time in which a regional noxious weed control board must adopt the state noxious weed list and select weeds for regional control is extended from 30 days to 90 days.

Landowner responsibilities are clarified to require the landowner to eradicate all Class A noxious weeds, control and prevent the spread of all Class B noxious weeds designated for control in the area, and control and prevent the spread of all Class B and C noxious weeds on the county weed list locally mandated as control priorities. If the land is forest land, the owner is only required to control and prevent the spread of Class B and C noxious weeds on the county weed list within a 1000 foot buffer strip of adjacent land uses. Forest land owners are only responsible for weed control of Class B and C weeds on the county weed list for a single 5-year period after harvesting the trees.

State agencies are required to develop their plans to control noxious weeds in cooperation with county weed boards. State agencies must use integrated pest management practices to control weeds.

When a property owner refuses permission for an authorized agent or employee of a weed board to inspect

## HB 1465

the property, a judge may issue a warrant to take specimens of weeds or other materials, conduct a general inspection, and perform eradication or control work.

If a property owner receives notice of a violation from the weed board in a prior growing season, and another violation is occurring, the county weed board may require destruction of all above ground plant parts at the most effective point in the growing season.

If an infestation is so serious that a quarantine of the land is required, a legal action for the collection of the costs for control work may be instituted against the property owner.

The director of agriculture is required to adopt rules with the advice of the state board designating noxious weed seeds that must be controlled in screenings. The rules must also identify how such screenings can be made available for beneficial uses. "Screenings" are defined as a mixture of mill or elevator-run mixture or a combination of varying amounts of materials obtained in the process of cleaning either grain or seeds. Anyone who knowingly or negligently sells or distributes a product, article, screenings, or feed stuff designated by rule to contain weed seeds or toxic weeds in an amount exceeding the allowed amount is guilty of a misdemeanor.

A county weed board may only be deactivated by the county legislative authority if it finds that there are no Class A or B noxious weeds designated for control in the area. If a weed district is dissolved, any district assessment funds may be transferred to the county weed board.

The state board is directed to work with various federal and tribal agencies to coordinate state and federal weed control. Federal agencies may be billed for costs of noxious weed control on federal land.

Civil infraction provisions are clarified. Other technical changes are made.

### Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 1997

## HB 1465

C 184 L 97

Requiring establishment of a no-cost consulting service regarding mining issues.

By Representatives Sump, Sheldon, Grant, Hatfield, Pennington, Delvin and Koster.

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Natural Resources administers the state's surface mining reclamation program. The department may, but is not required to, establish a no-cost consulting service within the department to assist

miners, surface mining reclamation permit holders, local government, and the public in technical matters related to surface mining.

**Summary:** The Department of Natural Resources must establish a no-cost consulting service for miners, surface mining reclamation permit holders, local government, and the public.

### Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 27, 1997

## SHB 1466

C 185 L 97

Removing authority of the department of natural resources to delegate enforcement of reclamation plans.

By House Committee on Natural Resources (originally sponsored by Representatives Sump, Sheldon, Grant, Hatfield, Delvin and Pennington).

House Committee on Natural Resources  
House Committee on Appropriations  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Natural Resources administers the state's surface mining reclamation program. The department may, by contract, delegate its enforcement authority over provisions in surface mine reclamation plans to local governments. Currently the department has one such contract in place with King County.

The surface mining law states that surface mining is an appropriate land use, subject to reclamation authority exercised by the department.

**Summary:** The Department of Natural Resources may continue to delegate its enforcement authority over surface mine reclamation plans to local governments if the department believes that the county, city, or town employs personnel who are qualified to enforce reclamation plans approved by the department.

A county, city, or town may not require for its review or approval a separate reclamation plan or application.

### Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 27, 1997

## SHB 1467

C 186 L 97

Specifying where reclamation performance security must be posted.

By House Committee on Natural Resources (originally sponsored by Representatives Sump, Sheldon, Chandler, Grant, Alexander, Hatfield, Delvin and Pennington).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** Before engaging in surface mining, a miner must obtain a reclamation permit from the Department of Natural Resources. Before the department may issue the permit, the applicant must provide an acceptable reclamation plan and must deposit performance security to guarantee that appropriate reclamation is completed. No other state agency or local government may require deposit of a performance security for surface mine reclamation.

Other government entities may or must obtain a performance bond or security for surface mining activities other than surface mine reclamation. For example, the Department of Ecology requires a remediation bond for metals mining operations, and some state agencies may require a private company to post performance security if that private company is extracting materials from state lands.

**Summary:** A clarification is made that only the Department of Natural Resources holds the performance security for surface mine reclamation. When acting in its capacity as a regulator, a state agency or local government may not require a surface mining operation to post performance security unless the state agency or local government has express statutory authority to do so. A state agency's or local government's general authority to protect public health, safety, and welfare does not constitute express statutory authority to require a performance security. However, when a state agency or local government is acting in its capacity as a landowner, the act does not prohibit the state agency or local government from requiring a performance security when contracting for extraction-related activities on state or local government property.

**Votes on Final Passage:**

House	97	0
Senate	48	0

**Effective:** July 27, 1997

**HB 1468**

C 413 L 97

Removing authority to modify reclamation permit fees.

By Representatives Buck, Chandler, Grant, Sump, Sheldon, Hatfield, Alexander, Delvin and Pennington.

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** Surface mine reclamation permit holders pay an annual permit fee. In 1993, the Legislature set the annual permit fee at \$650. The Legislature also gave the

Department of Natural Resources the authority to modify the annual permit fee by rule. The department has not done so.

Counties receive a special discount on these annual permit fees. Annual fees paid by a county for mines used exclusively for public works projects and having less than seven acres of disturbed area per mine may not exceed \$1,000. Annual fees are waived entirely for all mines used primarily for public works projects if the mines are owned and primarily operated by counties with 1993 populations of less than 20,000 persons. Twelve counties had 1993 populations of less than 20,000 persons.

**Summary:** The Department of Natural Resources' authority to modify the annual surface mine reclamation permit fee by rule is removed. The permit fee waiver for certain county mines is limited to mines with less than seven acres of disturbed area.

**Votes on Final Passage:**

House	97	0	
Senate	46	2	(Senate amended)
House	90	1	(House concurred)

**Effective:** July 27, 1997

**EHB 1472**

FULL VETO

Providing for designation of mineral resource lands.

By Representatives Reams, Romero, Pennington, Sherstad and Lantz.

House Committee on Government Reform & Land Use  
House Committee on Appropriations  
Senate Committee on Natural Resources & Parks

**Background:** The Growth Management Act (GMA) requires certain counties, and the cities within those counties to use an agreed-upon procedure to adopt a county-wide planning policy. This policy establishes a framework from which the county and cities in the county develop and adopt comprehensive plans, which must be consistent with the county-wide planning policy. The GMA requires counties to address certain issues in the comprehensive plan (land use, housing, capital facilities plan, utilities, rural designation, transportation) and to protect critical areas, designate and conserve certain natural resource lands, and designate urban growth areas. Finally, each county and city adopts development regulations consistent with its comprehensive plan.

All counties that plan under the GMA and that contain mineral resource lands must designate mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals. The GMA cities and counties must consider the mineral resource lands classification guidelines adopted by the Department of Community, Trade and Economic Development (CTED). CTED must consult with the De-

partment of Natural Resources to guide counties and cities in classifying mineral resource lands. To carry out this process, the CTED must consult with interested parties and conduct public hearings around the state.

After designating the mineral resource lands, the county, city, or town must adopt development regulations to conserve the designated mineral resource lands but these entities may not adopt regulations that prohibit uses legally existing on any land before the county adopted the regulations. The development regulations must assure that the use of lands adjacent to mineral resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of lands designated for the extraction of minerals.

**Summary:** Two provisions regarding mineral lands are added to the GMA. The first provision states the legislative intent regarding the importance of mining and the legislative finding that designation, production, and conservation of adequate sources of minerals is in the best interests of the citizens of the state. The second provision states that if a county contains mineral resource lands of long-term commercial significance and the county classifies mineral lands under the GMA, the county must designate sufficient mineral resource lands in its comprehensive plan to meet the projected 20-year, county-wide need.

Once a county designates mineral resource uses (including mining operations) those uses must be established as an allowed use in local development regulations. Allowed uses are those uses specified by local development regulations as appropriate within those areas designated through the advance or comprehensive planning process.

Once designated, a proposed allowed use must be reviewed for project specific impact and may be conditioned to mitigate significant adverse impacts within the context of site plan approval. This type of a review may not however, revisit the question of use of the land for mine-related operations.

The county or city must also designate mineral resource deposits, both active and inactive, in economically viable proximity to locations where the deposits are likely to be used. Through the comprehensive plan, the counties and cities must discourage the siting of new applications of incompatible uses which are adjacent to mineral resource industries, deposits, and holdings.

Amendments or additions to comprehensive plans or development regulations pertaining to mineral resource lands may be adopted in the same manner as other changes to the comprehensive plan or development regulations.

Any additions or amendments to comprehensive plans or development regulations require reasonable notice to property owners and other affected and interested individuals. The county may use an existing method of reasonable notice or use any one of several enumerated options.

**Votes on Final Passage:**

House	79	19	
Senate	33	14	(Senate amended)
House	75	17	(House concurred)

**VETO MESSAGE ON HB 1472**

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed House Bill No. 1472 entitled:

“AN ACT Relating to mineral resource land designation;”

This bill responds to the growing shortage of gravel and to land use conflicts over gravel mining operations. Clearly, there is a need for new sources of gravel. This bill, however, goes too far in limiting the rights of concerned citizens, communities and local governments to address fully and appropriately the impacts of gravel mines and gravel mining operations.

As in the past, this issue will continue to be contentious until local governments, concerned citizens and the industry resolve their differences. The Land Use Commission is ideally suited for this task and, with this veto, I am requesting that the Commission bring closure to this issue and provide a recommendation on how to move ahead next year. I strongly encourage local governments, concerned citizens and the industry representatives to work through their differences in order to meet the need for additional gravel operations without encroaching on the land use authority of local governments and the rights of concerned citizens and communities.

For these reasons, I have vetoed Engrossed House Bill No. 1472 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**HB 1473**

C 187 L 97

Providing supplemental appropriation authority for the development loan fund.

By Representatives Sheldon, Buck, Veloria, Morris, Kessler, Scott and Dickerson.

House Committee on Capital Budget  
Senate Committee on Ways & Means

**Background:** The Development Loan Fund Program (DLFP), administered by the Department of Community, Trade, and Economic Development (CTED), provides low-interest loans to minority and women-owned businesses and businesses located in areas experiencing high unemployment. The DLFP loans provide “gap financing” to businesses by making up the difference between the cost of a project and the amount that businesses are able to obtain from conventional lenders. Loans are limited to a maximum of \$350,000 per project, or up to \$700,000 per project with the approval of the CTED director.



The DLFP avoids the state's constitutional prohibition against lending credit to individuals and businesses by exchanging state appropriations with federal Community Development Block Grant (CDBG) funds. Federal CDBG funds may be used for economic development activities, though they are normally used for community infrastructure projects. Under the DLFP, state capital appropriations are used for community infrastructure projects that would otherwise be funded using CDBG funds. The CDBG funds are subsequently used for loans to private businesses. Loan repayments are deposited in the development loan account, an appropriated capital budget account, and used for additional loans.

The 1995-97 capital budget appropriated \$3.5 million from the development loan account to the CTED for the DLFP. The CTED has issued 18 loans totaling \$3.4 million since the beginning of the biennium. Due to higher than anticipated loan repayments over the biennium, approximately \$2.3 million is available in the account for additional loans. The CTED cannot expend these funds without additional appropriation authority. The CTED has provided preliminary approval for four additional loans totaling \$653,000 contingent on receiving additional appropriation authority from the Legislature.

**Summary:** The 1995-97 capital budget appropriation to the Department of Community, Trade, and Economic Development from the development loan account is increased by \$700,000, from \$3.5 million to \$4.2 million.

**Votes on Final Passage:**

House	97	0
Senate	44	0

**Effective:** April 24, 1997

## SHB 1474

### FULL VETO

Increasing categorical exemptions from SEPA.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Reams, Cairnes, Lisk, Sherstad, Sheldon, Sheahan, Pennington, Hatfield, Koster, Dunn, Doumit, McMorris, Alexander, Thompson, Bush, McDonald, Delvin, Wensman and Mulliken).

House Committee on Government Reform & Land Use  
Senate Committee on Agriculture & Environment

**Background:** The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare a detailed statement (also known as an environmental impact statement) if proposed legislation or other major action may have a probable significant, adverse impact on the environment. The determination whether a detailed statement must be prepared, involves a threshold determination and use of an environmental checklist.

The Department of Ecology's rules categorically exempt some matters from a threshold determination. Among other classifications, the categorically exempted matters are classified as being minor new construction or minor land use decisions. Counties and cities are permitted to raise the exemption level for what is categorically exempted as minor new construction up to higher specified levels, but are not permitted to raise the exemption level for what is categorically exempted as minor land use decisions.

If it appears that a probable significant adverse environmental impact may result, the proposal may be altered, or its probable significant adverse impact mitigated, to remove the impact. If the probable significant adverse environmental impact remains, then an environmental impact statement is prepared. The environmental impact statement is limited, or "scoped", to address only the matter or matters that are determined under the threshold determination process to have a probable significant adverse environmental impact.

The Growth Management Act (GMA) requires certain counties, and cities located in those counties, to plan under all of the requirements of the act. In addition, the county legislative authority of any county may adopt a resolution making the county, and cities located in that county, plan under all of the requirements of the GMA.

Among other requirements, a county planning under all of the requirements of the GMA must designate urban growth areas within which urban growth will be located and outside of which urban growth may not be located.

**Summary:** Minimum categorical exemption levels for minor new construction, landfill or excavation proposals, and minor land use decisions within urban growth areas in counties planning under the GMA. The exemption levels are increased above the levels permitted in the Department of Ecology rules. The legislative authority of a county or city planning under the GMA may raise the exemption levels by ordinance or resolution to specified maximum levels.

**Votes on Final Passage:**

House	59	38	
Senate	31	18	(Senate amended)
House	56	36	(House concurred)

### VETO MESSAGE ON HB 1474-S

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1474 entitled:

"AN ACT Relating to increasing categorical exemptions from the state environmental policy act within areas designated as urban growth areas under the growth management act;"

Substitute House Bill No. 1474 would increase the categorical exemptions from threshold determination and environmental impact statement requirements for development activities within

urban growth areas. Although this legislation would increase the certainty and timeliness of small to medium-sized development projects within urban growth areas where growth is to be encouraged, it does so at too high a price.

One of my goals regarding land use issues is to increase the discretion and flexibility afforded to local governments. This bill would have the opposite effect by imposing a top down, one-size-fits-all approach to SEPA review of projects below a certain state-established threshold size. Furthermore, this bill could have the unintended effect of precluding a local government from administratively applying substantive protection measures for critical areas regulations required under the Growth Management Act, or from assessing impact fees for roads, schools, or other impacts on these projects.

By adopting a committee amendment that would have clarified these points and then rejecting that amendment on the floor of the Senate, the legislature may have created legislative history supporting the position that local governments are precluded from assessing impact fees and protecting critical areas with respect to these exempted projects. This type of legislative history would be difficult to overcome in court.

For these reasons, I have vetoed Substitute House Bill No. 1474 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**SHB 1478**  
**FULL VETO**

**Feeding wildlife during severe winter weather.**

By House Committee on Appropriations (originally sponsored by Representatives Clements, Buck, Huff, Lisk, Mulliken, McDonald, Honeyford, Sehlin, McMorris, Sump, Sheldon, Parlette, Skinner, Chandler, Kessler, Hatfield and Grant).

House Committee on Appropriations  
Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means

**Background:** The Department of Fish and Wildlife (DF&W) is directed by law to work closely with land-owners suffering game damage problems to control damage without killing the animals when practical.

During winter conditions, the DF&W has established feeding stations for deer and elk in areas of limited winter range and where habitat has been depleted because of forest and wild land fires. If animals are not fed they may pose a risk to crops and private property and become a traffic hazard as they forage for food.

During the winter of 1996-97, an early snowfall and more severe winter conditions than normal caused the DF&W to feed more animals for a longer period of time than in other years. Typically the DF&W allots approximately \$65,000 for emergency winter feeding in a biennium.

The department issues a number of different licenses. The fees for these various licenses are set in statute.

**Summary:** The Legislature recognizes it is in the public interest to feed deer and elk on an emergency basis during episodes of severe winter weather given such animals are at risk of starvation and may be driven to forage on private property, damaging crops and other vegetation.

For the winter of 1997-98, the DF&W is directed to work with hunters and other interested parties to develop and implement an emergency winter feeding funding plan. The plan must raise at least \$1 million. The department may use a number of mechanisms to raise money including increased fees, the sale of surplus property, and donations. Under the plan, fees may not constitute more than 50 percent of total moneys raised. Moneys raised under the plan are to be deposited into the state wildlife fund and may only be used for emergency winter feeding. The plan expires on July 1, 1998, unless approved by the Legislature to continue.

Until December 31, 1998, the department may charge an additional fee for certain licenses to implement the emergency winter feeding funding plan.

**Votes on Final Passage:**

House	85	13
Senate	35	0

**VETO MESSAGE ON HB 1478-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1478 entitled:

“AN ACT Relating to feeding wildlife during episodes of severe winter weather;”

Substitute House Bill No. 1478 would have required the Department of Fish and Wildlife to develop and implement an emergency winter feeding plan for deer and elk for the winter of 1997-98, and to sell property as a way of funding this plan. Selling long-term assets to pay for a short-term benefit is a questionable practice. In addition, existing state and federal law require that the proceeds from the sale of these lands be used only for habitat acquisition; it is inappropriate to use revenue from these lands to pay for winter feeding. SHB 1478 is not a well-crafted approach to provide funds for winter deer and elk feeding.

Although I have vetoed this bill, I am asking the Department of Fish and Wildlife to work with hunters and other interested parties to develop a long-term strategy for funding emergency winter feeding.

For these reasons, I have vetoed Substitute House Bill No. 1478 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**SHB 1485**

C 414 L 97

Requiring the department of fish and wildlife to report to the legislature regarding salmon harvests.

By House Committee on Natural Resources (originally sponsored by Representatives Linville, Buck, Hatfield, Chandler, Cooper, Sump, Regala, Butler, Anderson, Doumit, Morris, Sheldon, Tokuda, Kessler, Scott, Blalock and Dickerson).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** Federal court orders have established the basis for allocating salmon and steelhead harvests between treaty tribal and non-tribal entities in the state. Key provisions of this allocation include the following: 1) the Department of Fish and Wildlife and the treaty tribes must cooperatively manage harvests under the continuing jurisdiction of the federal courts; 2) treaty tribes are allowed the opportunity to catch up to 50 percent of the harvestable salmon; 3) harvestable salmon are generally those fish that remain after deducting for spawning escapement; 4) harvest allocation decisions must be made for each river and each fish run in that river unless otherwise agreed; and 5) wastage of fish should not occur. Most allocation agreements for tribal and non-tribal harvests are made following a series of public meetings known as the "North of Falcon" process.

Federal court orders also require that tribal and non-tribal entities keep harvest records to ensure equity in allocating salmon and to promote sound management. The department maintains this information in a highly technical form that is not easily readable by the public.

**Summary:** The Department of Fish and Wildlife is required to submit an annual post-harvest report to the Legislature identifying how salmon and steelhead harvests were allocated among treaty tribal and non-tribal fishers for the preceding season. Additionally, the report must identify policies that result in a less than full harvest for non-tribal fishers and specify the location and quantity of salmon and steelhead harvested under the wastage provisions of the federal court orders. The report is due by September 1 of each year.

**Votes on Final Passage:**

House	93	0	
Senate	46	0	(Senate amended)
House	97	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1491**

C 271 L 97

Changing references from guide or service dog to dog guide or service animal.

By House Committee on Children & Family Services (originally sponsored by Representatives Cody, Cooke, Tokuda, Dyer, Murray, Ogden and Costa).

House Committee on Children & Family Services  
Senate Committee on Human Services & Corrections

**Background:** Washington has provided protection and regulation of guide and service dogs under the "White Cane Law" since 1969. The White Cane Law provides totally or partially blind, hearing impaired, or otherwise physically disabled people the right to be accompanied by a guide or service dog into any public place without being required to pay an extra charge. It is illegal to deny or interfere with admittance to, or enjoyment of, any public facility by a person with an enumerated handicapping condition.

In 1990, the U.S. Congress enacted the American with Disabilities Act that specifies certain rights for persons with disabilities.

**Summary:** References to "guide and service dogs" are changed to as "dog guides" and "service animals." The definition of "service animals" is expanded to include animals assisting sensory and mentally disabled persons. Enforcement of the access requirements for people with dog guides or service animals will be assumed by the Human Rights Commission. References to "dogs in training" are removed from the definitions of dog guide and service animal. The statute prohibiting discrimination against disabled drivers at service stations is transferred from the White Cane Law to the Law Against Discrimination.

**Votes on Final Passage:**

House	95	0	
Senate	46	0	(Senate amended)
House	92	0	(House concurred)

**Effective:** July 27, 1997

**EHB 1496**

C 132 L 97

Clarifying the definition of "negligent treatment or maltreatment" of a child.

By Representatives Benson, Cooke, Mulliken, Dunshee, Linville, Sheahan, Gombosky, Carrell, Sterk, McMorris and Kastama.

## SHB 1499

House Committee on Law & Justice  
Senate Committee on Human Services & Corrections

**Background:** Certain persons are obligated to report whenever they have reason to believe a child, adult dependent person, or disabled person has suffered abuse or neglect. Those required to report abuse or neglect include medical personnel, school personnel, counselors, child care providers, employees of the Department of Social and Health Services (DSHS), and law enforcement personnel. The report of suspected neglect or abuse is to be made to a law enforcement agency or the DSHS. As a consequence of such a report, an investigation may be undertaken, and if abuse or neglect is found, removal of the victim, imposition of restraining orders, and other procedures may follow. The matter may also be referred for possible criminal charges or dependency proceedings.

For purposes of this reporting requirement, abuse or neglect includes "negligent treatment, or maltreatment of a child." Negligent treatment or maltreatment of a child is defined as a serious disregard of the consequences of an act or omission that amounts to a "clear and present danger" to a child's health, welfare, and safety.

**Summary:** The definition of "negligent treatment or maltreatment of a child" for purposes of the mandatory reporting statute is amended. The sharing of a bedroom by siblings is not in and of itself negligent treatment or maltreatment.

### Votes on Final Passage:

House	97	0
Senate	45	0

**Effective:** July 27, 1997

## SHB 1499

C 377 L 97

Establishing a rural development council.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Schoesler, Sheahan, Doumit, Morris, Tokuda, Kessler, Scott and Dickerson; by request of Department of Community, Trade, and Economic Development).

House Committee on Trade & Economic Development  
Senate Committee on Commerce & Labor

**Background:** The Rural Development Council is a public-private collaborative effort designed to improve the delivery and accessibility of resources to rural communities. The Rural Development Council is part of a national initiative, the National Rural Development Partnership, that addresses rural economic development, human and social services, physical infrastructure, and environmental conservation issues in a collaborative, strategic and bottom-up fashion.

There are 37 state rural development councils across the country. The Washington State Rural Development Council was one of eight pilot councils authorized in 1990. The Washington State Rural Development Council (WSRDC) is staffed by a full-time executive director, and governed by a volunteer executive committee comprised of representatives from the private, nonprofit, and local, state, federal and tribal government sectors.

The WSRDC is funded from a federal matching grant that provides 75 percent of the operating funds, and remaining funds are provided in grants or in-kind contributions from other non-federal sources. The Department of Community, Trade and Economic Development provides administrative and clerical support to the WSRDC.

**Summary:** The Washington State Rural Development Council (WSRDC) is established in statute. The WSRDC is governed by an executive committee that consists of 11 members appointed by the Governor. The executive committee consists of representatives of business, natural resources, agriculture, environment, economic development, education, health, human services, counties, cities and tribal governments. At least 90 percent of the members of the executive committee must reside in rural areas.

The Governor makes appointments of new members to the executive committee for three-year terms as follows: four members are appointed in 1997, four are members appointed in 1998, and three members are appointed in 1999. The members of the executive committee are reimbursed for travel expenses.

The duties of the WSRDC include (1) informing the Governor, Legislature, and state and federal agencies on rural community development issues; (2) identifying and recommending improvements to existing resource delivery systems; and (3) serving as a liaison between rural communities and public and private resource providers.

State agencies are encouraged to contribute financially to the council. All federal agencies, state agencies, and statewide associations that make a significant contribution to the WSRDC are considered ex officio members.

The Department of Community, Trade and Economic Development may provide staff support, administrative assistance, and office space to the WSRDC. The WSRDC expires June 30, 2003.

### Votes on Final Passage:

House	93	0	
Senate	45	0	(Senate amended)
House	91	1	(House concurred)

**Effective:** July 27, 1997

## SHB 1513

C 250 L 97

Enhancing transportation demand management.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Radcliff, Scott, Sterk, O'Brien, Robertson, Hatfield, Skinner, Murray, Cairnes, Wolfe and Wensman; by request of Commute Trip Reduction Task Force).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** In 1991, requirements for commute trip reduction (CTR) were enacted. All public and private employers with 100 or more employees who commute during the rush hours of 6 a.m. to 9 a.m. are required to develop a program for reducing the number of single occupancy trips by their employees. The law affects major employers in counties with populations greater than 150,000 and is implemented through local CTR ordinances. The counties impacted by this law are King, Pierce, Snohomish, Clark, Spokane, Kitsap, Thurston, Yakima and Whatcom. Major employers in these counties are required to make good faith efforts to reduce drive-alone commuting by 15 percent by 1995, 25 percent by 1997, and 35 percent by 1999. These reductions are measured against the base year value of the CTR zone in which the work site is located. Employer transportation programs are in place at nearly 900 worksites. Jurisdictions may impose civil penalties if an employer fails to implement or make necessary changes to its trip reduction program.

The administrative responsibility for the program is with the Department of Transportation (DOT). The director of the Public Transportation and Rail Division chairs the CTR Task Force, comprised of 22 employer, state agency, county, city, transit and citizen representatives, of which 18 are appointed by the Governor and four serve by virtue of their position in state government.

The task force has developed implementation guidelines for local jurisdictions to follow when developing their local ordinance and program. The guidelines were completed in 1992 and programs were implemented in 62 jurisdictions within the affected counties. The CTR Task Force is also responsible for monitoring the programs and providing clarification of the guidelines or, when needed, changing the guidelines.

In addition to developing the guidelines, the task force was charged with evaluating the program and reporting back to the Legislature in 1995 and 1999 on the costs and benefits. The first legislative report was completed and presented to the Legislative Transportation Committee on December 1, 1995. The task force is dissolved on July 1, 2000.

Implementing the CTR programs has raised questions about employer liability and privacy of employee personal

information. Specific issues are: (1) disclosure of public records, specifically ride-matching records, by a public agency; (2) potential workers' compensation liability for employers that promote or contribute to ride-sharing programs; and (3) potential tort liability for entities that perform ride-matching or other ride-sharing promotional activities.

**Summary:** The commute trip reduction (CTR) goals for reductions in single-occupancy vehicle trips or vehicle miles traveled are revised to 20 percent in 1997, 25 percent in 1999, and 35 percent by 2005. The worksite is able to choose either the zone base-year value or the worksite base-year value against which to measure. The jurisdictions are required to notify affected employers of the procedures to apply for the CTR goal modification or exemption from the commute trip reduction requirements, based on the guidelines established by the CTR Task Force. Jurisdictions are also required to give credit to employers for shifting employee schedules so that the commute is outside of the 6 a.m. to 9 a.m. time frame. The CTR Task Force is responsible for establishing guidelines for the jurisdictions to follow when applying this credit.

Employers are required to make a good faith effort toward achievement of the CTR goals. Good faith is defined as meeting the minimum statutory requirements and working with the jurisdictions in continuing the existing program or modifying the program in a way that is likely to result in improvements to the program. The jurisdictions are required to work with the employer when proposing changes to the CTR programs. Transit agencies are required to evaluate major employer worksites when planning transit service changes or expansion of transit services.

The CTR Task Force is directed to work with jurisdictions, major employers and other parties to develop and implement a public awareness campaign to increase the effectiveness of local CTR programs. The legislative intent for the CTR program is modified to recognize the importance of increasing individual citizens' awareness of air quality, energy conservation, and traffic congestion, and the contribution individual citizens can make toward these issues.

The CTR Task Force is expanded to 28 members by adding an additional six members from the private sector. Each affected county will have at least one employer representative on the task force. The sunset date for the task force is extended to July 1, 2006.

The names, addresses and other individually identifiable records held by an agency in relation to a vanpool, carpool or other ride-sharing program or service are exempt from public inspection or copying.

Alternative commute modes are defined and added to existing ride-sharing exemptions from industrial insurance coverage.

## HB 1514

No person or entity can be held liable in tort for promoting or participating in a ride-share program.

### Votes on Final Passage:

House 77 19  
Senate 40 6

Effective: July 27, 1997

## HB 1514

C 54 L 97

Establishing requirements for keeping records of unified business identifier account numbers.

By Representatives Conway, McMorris and Schoesler; by request of Joint Task Force on Nonpayment of Employer Obligations.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** In 1996, Substitute House Bill 2513 created the Task Force on Nonpayment of Employer Obligations. The task force was directed to make recommendations on, among other issues, methods of improving compliance with employer responsibilities for covering workers under state industrial insurance law and other laws.

In its December 1996 report, the task force recommended that persons contracting with independent contractors in the construction industry should be required to keep a record of the contractor's unified business identifier (UBI) number. The task force further recommended that if the Department of Labor and Industries, the Employment Security Department, or the Department of Revenue found noncompliance during an audit, the employer or taxpayer should be subject to an administrative penalty and an employing contractor should be barred from bidding on public works contracts for a specified period of time.

**Summary:** Employers covered by industrial insurance and unemployment insurance, and taxpayers required to report to the Department of Revenue, must obtain and keep a record of the unified business identifier (UBI) number of persons with whom they contract for construction work or electrical work.

An employer or taxpayer who fails to keep the UBI record is subject to a penalty of up to \$250 and is barred from bidding on or contracting for public works projects for two years from the date the violation is finally determined.

### Votes on Final Passage:

House 97 0  
Senate 43 1

Effective: July 27, 1997

## HB 1525

C 188 L 97

Revising the submittal date for county six-year transportation programs.

By Representatives K. Schmidt, Hatfield and Skinner; by request of County Road Administration Board.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Before July 1 of each year, the legislative authority of each county is required to prepare and adopt a six-year comprehensive transportation program. Copies of the program are required to be filed with the County Road Administration Board and the state secretary of transportation.

Counties are also required to submit an annual transportation plan by the first Monday in October. The annual plan must be adopted prior to the adoption of the ensuing year's transportation budget.

**Summary:** The July 1 adoption date for the six-year transportation program is revised to allow the six-year plan to be adopted at any time prior to the adoption of the annual transportation budget.

### Votes on Final Passage:

House 97 0  
Senate 46 0

Effective: July 27, 1997

## E2SHB 1527

C 242 L 97

Regulating pesticides.

By House Committee on Appropriations (originally sponsored by Representatives Chandler and Linville; by request of Department of Agriculture).

House Committee on Agriculture & Ecology  
House Committee on Appropriations  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** Pesticide Registration. The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. In general, a pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency.

In general, a pesticide cannot be distributed in this state or transported in intrastate commerce unless it is registered with the state Department of Agriculture.

Registration Fees. The fee paid by a person for registering a pesticide with the department is dependent on the number of pesticides the person registers annually. The fee ranges from \$105 per registration for each of the first

25 pesticides a person registers to \$75 per registration for each of the 101st to 150th registered and \$50 for each additional registration beyond the 150th pesticide. A non-refundable application fee of \$200 is charged for each application for registering a label for a special local need. The fee for such a special local need registration is \$200 per year. These fees regarding special local need registrations are dedicated to assisting in funding the department's activities regarding special local need registrations. All of these registration fees are deposited in the Agricultural Local Fund for funding pesticide registration activities.

A special registration fee of \$10 per registered product applies to any pesticide product labeled for home and garden use only. This fee is dedicated to assisting in funding the Pesticide Incident Reporting and Tracking (PIRT) Panel. A surcharge of \$6 is added to each pesticide registration and licensing fee. This surcharge is dedicated to assisting in funding the PIRT Panel and the pesticide investigations of the Department of Agriculture and those of the Department of Health. However, beginning with the 1994 supplemental budget, the fees dedicated to the support of the PIRT Panel and investigations by the Department of Health have been retained by the Department of Agriculture, and other funding has been provided to the PIRT Panel and the Department of Health.

**Pesticide Licenses.** Persons who distribute pesticides, other than those labeled for home and garden use only, must be licensed as pesticide dealers under the state's Pesticide Control Act. The owner or supervisor of a pesticide distribution outlet is licensed as a dealer manager. Pesticide consultants are also licensed under the Pesticide Control Act.

With certain exceptions, those who apply pesticides commercially are licensed or certified under the state's Pesticide Application Act. The director of the Department of Agriculture may require any of these licensed persons to be re-certified as to their knowledge regarding pesticides and the application of pesticides. This requirement may be met by securing a certain number of approved continuing education credits over a five-year period or by taking a licensing examination. For most licenses governed by this act, 40 approved credits must be accumulated in five years with not more than 15 in any one year.

Monies collected from civil penalties imposed under the Pesticide Application Act are deposited in the agricultural local fund and used for the enforcement of the act.

**Summary: Pesticide Registration Fees.** The variable fee schedule for registering pesticides with the department and the annual \$200 registration fee for registering pesticides for special local use are replaced by a flat annual fee of \$145 per registration. Repealed are the dedication of a \$10 registration fee to the support of the PIRT Panel, the \$6 surcharge on pesticide registrations and licenses, and the \$200 non-refundable application fee for applications for registrations for special local needs.

**Licensing Fees.** Annual licensing fees for persons licensed under the state's Pesticide Control and Pesticide Application Acts are increased. The licensing fee for a pesticide dealer is increased to \$50 from the current level of \$36, which includes the \$6 surcharge. The fees for a dealer manager and a public pest control consultant are each increased to \$25 from \$21. For a pest control consultant, the fee increased to \$45 from \$36; for a commercial applicator, to \$170 from \$142; and for a commercial operator, to \$50 from \$39. For private-commercial applicators, private pesticide applicators, demonstration and research applicators, and public operators, the fees are each increased to \$25 from \$23. The fee for licensing a pesticide apparatus is increased to \$20 from \$17.

The authority of the director of agriculture to require re-certification of a licensee's pesticide knowledge every five years for those licensed under the Pesticide Application Act is extended to those licensed under the Pesticide Control Act as well. If continuing education is used for this re-certification, 40 approved credits must be accumulated with not more than 15 credits in any one year.

**Pilot Project.** A pilot project is established to provide a license for persons to apply restricted use herbicides for controlling weeds in Ferry and Okanogan counties. The pilot project expires December 31, 2002. The license is called a limited private applicator's license and it permits the licensee to apply herbicides to control weeds on his or her own non-production agricultural land and on the non-production agricultural land of another person if it is done without compensation other than the trading of personal services. The application of herbicides to aquatic sites is not permitted under such a license. The application and examination requirements, as well as the fee, for a limited private applicator are the same as for a private applicator; however, the continuing education requirements are altered for this category of license. A person who successfully completes these requirements is deemed to have met the credit accumulation requirements for private applicators.

**Administration.** Monies collected from civil penalties imposed under the Pesticide Control and Pesticide Application Acts are to be deposited in the general fund. The date by which the Department of Agriculture must submit its annual report to the Legislature regarding its pesticide related activities, including food monitoring for pesticide residues, is changed from December 1, to February 1. The report no longer includes a listing of the pesticides for which testing was not done. It is to list the pesticides for which testing was done. Provisions throughout the Pesticide Control and Pesticide Application Acts which facilitated the changing of licenses of various durations to annual licenses and facilitated the staggering of the expiration dates for the licenses are repealed.

## EHB 1533

### Votes on Final Passage:

House	68	29	
Senate	42	6	(Senate amended)
House	63	29	(House concurred)

**Effective:** July 27, 1997  
January 1, 1998 (Sections 2, 4-7, 11-15, 17, & 22)

## EHB 1533

C 189 L 97

Using county road funds.

By Representatives Sehlin, Quall, K. Schmidt, D. Schmidt, Scott and Hankins.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Revenues derived from the excise tax on motor vehicle fuel (gas tax) are dedicated to "highway purposes" by the 18th Amendment of the Washington State Constitution. The gas tax is collected by the Department of Licensing and deposited into the motor vehicle fund. Distributions and appropriations, including distributions to cities and counties, from the motor vehicle fund are dedicated to "highway purposes."

Risk management and insurance expenditures related to highways have historically qualified as a "highway purpose." A 1995 Skagit County audit, conducted by the state Auditor's Office, raised questions as to the validity of these expenditures.

**Summary:** Risk management, insurance, and self insurance programs are added to the list of eligible expenditures for the county road fund when directly related to county road purposes. The requirement to use the money paid into the county road fund from the motor vehicle fund for proper county road purposes is extended to all monies paid into the county road fund.

### Votes on Final Passage:

House	97	0
Senate	45	0

**Effective:** July 27, 1997

## SHB 1535

C 133 L 97

Declaring a naturopath a health care practitioner for certain purposes.

By House Committee on Health Care (originally sponsored by Representatives Sherstad, Cody, Dyer, Murray, Cooke, O'Brien, Cooper, Wolfe, Cole, Veloria, Butler, Ogden, Anderson, Mason and Van Luven).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** Health care assistants are individuals who assist health care practitioners and health facilities specified by law in providing health services to patients. Physicians, osteopathic physicians, podiatrists, nurses and advanced registered nurse practitioners, as well as hospitals and nursing homes, may certify to the Department of Health the use of individuals as health care assistants.

Health care assistants are registered with the department for inclusion under the Uniform Disciplinary Act.

Health care assistants may administer injections when supervised by a health care practitioner who is physically present and immediately available.

Practitioners of naturopathic medicine or naturopathy are not authorized by law to certify and use health care assistants. The practice of naturopathy includes the diagnosis and treatment of disorders of the body by stimulating the natural processes of the body. Naturopaths may administer injections for immunization, blood withdrawal, and vitamin B-12 deficiency.

**Summary:** Licensed naturopaths are included among the health care practitioners who may certify an individual as a health care assistant.

### Votes on Final Passage:

House	94	0
Senate	48	0

**Effective:** July 27, 1997

## SHB 1536

C 334 L 97

Modifying regulation of respiratory care practitioners.

By House Committee on Health Care (originally sponsored by Representatives Backlund, Cody and Dyer).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means

**Background:** Respiratory care practitioners are certified by the Department of Health for practice. The secretary of the department acts as the disciplinary authority. An ad hoc advisory committee advises the secretary on the implementation and operation of the regulatory program.

Respiratory care practitioners work under the direct order and supervision of physicians, and are employed in the treatment, management, diagnostic testing, rehabilitation, and care of patients with deficiencies and abnormalities affecting the cardiopulmonary system.



**Summary:** A licensure program for practicing respiratory care is established and administered by the secretary of the Department of Health, and only licensed respiratory care practitioners may practice in this state unless exempted from licensure by law.

The respiratory care scope of practice is modified to include the insertion of devices for drawing and analyzing venous blood, and the diagnostic monitoring of, and therapeutic interventions for, aiding the physician in diagnosis.

Exemptions from licensure are provided to other licensed practitioners, employees of the federal government, students and trainees in respiratory care, and registered nurses employing the title "respiratory care practitioner", and for uncompensated respiratory care of a family member.

Applicants for licensure must have completed an approved school program with a two-year curriculum. The July 1, 1997, effective date is provided to permit the department to develop and establish the licensure program. The act becomes fully operational on July 1, 1998. Certified practitioners who apply for a license within one year may be licensed without having to complete the two-year educational qualifications and passing an examination.

The secretary is authorized by rule to establish requirements for continuing education.

**Votes on Final Passage:**

House	97	1	
Senate	47	0	(Senate amended)
House	91	1	(House concurred)

**Effective:** July 1, 1997 (Sections 5, 9 & 10)  
 July 1, 1998 (Sections 1-4, 6-8 & 11-15)

**HB 1539**  
FULL VETO

Regulating fire district associations.

By Representatives Honeyford, Fisher, Schoesler and Sheldon.

House Committee on Government Administration  
 Senate Committee on Government Operations

**Background:** Fire commissioners of fire protection districts are authorized to adopt articles of association or articles of incorporation under private nonprofit corporation laws to form an association to secure information of value in suppressing and preventing fires and other district purposes, hold and attend meetings, and promote the more economical and efficient operation of associated fire protection districts. Expenses of the nonprofit corporation are paid from funds paid by member fire protection districts. Contributions by any member fire protection district may not exceed 2.5 cents per \$1,000 of assessed valuation of the district in any calendar year.

**Summary:** The association that fire commissioners are authorized to create to provide services for fire protection districts is declared to be a municipal corporation.

**Votes on Final Passage:**

House	97	0
Senate	46	0

**VETO MESSAGE ON HB 1539**

April 22, 1997

To the Honorable Speaker and Members,  
 The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill 1539 entitled:

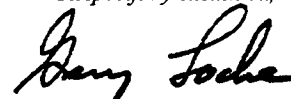
"AN ACT Relating to fire district associations;"

House Bill 1539 would allow the Washington Fire Commissioners Association, which has been limited to existing as a nonprofit corporation, to adopt articles of association as a municipal corporation. According to testimony provided in the House Committee on Government Administration and the Senate Committee on Government Operations, the purpose of the bill is to assure that property owned by the Association is exempt from property tax.

Unfortunately, this bill does not take a workable approach to accomplish its goal. It is highly questionable whether allowing the Association to reorganize as a municipal corporation would make property it owns exempt from tax.

For these reasons, I have vetoed House Bill No. 1539 in its entirety.

Respectfully submitted,



Gary Locke  
 Governor

**HB 1545**  
 C 160 L 97

Regulating funding for domestic violence shelters.

By Representatives Sheahan, Costa, Tokuda, Cooper, Blalock, Keiser, Kenney, Conway, Lantz, Cole, Wolfe, O'Brien, Mason, Wood and Scott.

House Committee on Law & Justice  
 Senate Committee on Human Services & Corrections

**Background:** The Department of Social and Health Services (DSHS) administers funding for domestic violence shelters. The grant money that the DSHS provides for these shelters may come from a variety of sources, including appropriated state money and federal money. One of the grant requirements for the DSHS administered funding is a 50 percent local match.

The 50 percent local match may be from either a public or private source and may consist of money or in-kind contributions.

**Summary:** The 50 percent local match requirement for domestic violence shelter grants is eliminated.

## SHB 1550

### Votes on Final Passage:

House 97 0  
Senate 47 0

Effective: July 27, 1997

## SHB 1550

C 103 L 97

Prohibiting disability retirement benefits resulting from criminal conduct.

By House Committee on Appropriations (originally sponsored by Representatives Doumit, Ballasiotes, Hatfield, Pennington, Kessler, Tokuda, Carlson, Ogden, Romero and Mielke).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), and Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) all permit various disability benefits to members.

**LEOFF:** LEOFF I provides a disability benefit equaling 50 percent of final average salary with an additional 5 percent for each dependent child. The benefit may not exceed 60 percent of final average salary.

A LEOFF II member who is permanently disabled receives a benefit equaling 2 percent of the member's years of service multiplied by average final compensation, with an actuarial reduction from age 55 to the age of the member at the time of disability.

**PERS:** PERS I provides a non-duty disability benefit equaling 2 percent of the members years of service multiplied by average final compensation, with a 2 percent reduction for each year between the member's age and age 55.

The disability benefit for a PERS II member is 2 percent of the member's years of service multiplied by average final compensation, actuarially reduced from age 65.

**TRS:** A disabled TRS I member has three options: 1) the member may receive a regular retirement benefit, if eligible; 2) the member may receive a benefit based on years of service and average final compensation; or 3) the member may receive accumulated employee contributions plus interest and withdraw from TRS.

The disability benefit provided to a TRS II member is 2 percent of the member's years of service multiplied by average final compensation, actuarially reduced from age 65. A TRS III member would receive a 1 percent benefit based on years of service and average final compensation, actuarially reduced from age 65.

**Summary:** Under the PERS, TRS, and LEOFF retirement systems, disability benefits may not be granted to a member whose disability resulted from criminal conduct

on the part of the member. This change applies to members of PERS, TRS, or LEOFF who engage in criminal conduct after the act's effective date.

### Votes on Final Passage:

House 97 0  
Senate 47 0

Effective: April 21, 1997

## HB 1551

C 207 L 97

Increasing fiscal flexibility for institutions of higher education.

By Representatives Mason, Carlson, Radcliff, Kenney, Cooper, Conway, Costa, Sullivan, Wolfe, Scott, O'Brien and Wood.

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** Public baccalaureate institutions and community colleges may waive all or a portion of tuition and fees for students through approximately 35 different tuition waiver programs. There is a statutory maximum on the amount of operating fee revenue that each baccalaureate institution and the community colleges as a whole may waive. The waiver cap ranges from a high of 35 percent for community colleges to a low of 6 percent for The Evergreen State College. Statutory intent language suggests that the Legislature will not reduce state support for institutions that do not waive the entire amount of revenue permitted under the cap.

Most waiver programs are designed to help a student with particular circumstances. For example, waivers are permitted for needy students, teaching and research assistants working half-time or more, the children of deceased and disabled firefighters and law enforcement officials, a stipulated number of international students, and active duty military personnel, to name a few. Only one program gives the institutions the flexibility to waive tuition and fees for students with no special circumstances. Under this program, baccalaureate institutions may waive up to 1 percent of their operating fee revenue for any student, except on the basis of intercollegiate athletics. Community colleges have the same authority, but their revenue limit under this program is .075 percent of their operating fee revenue.

**Summary:** Each baccalaureate institution may use up to 2 percent of the institution's operating fee revenue to waive all or a portion of tuition and fees for any student, except on the basis of intercollegiate athletics. This authority is subject to the existing overall statutory waiver cap in effect for each baccalaureate institution.

**Votes on Final Passage:**

House 97 0  
Senate 48 0

**Effective:** July 27, 1997

**2SHB 1557**

C 295 L 97

Exempting from taxation and valuation of property improvements used for fish and habitat restoration and protection and water quantity and quality improvement programs.

By House Committee on Finance (originally sponsored by Representatives Buck, Linville, Crouse, Kastama, Hankins, Grant, Lisk, Doumit, Hatfield, Johnson and Regala).

House Committee on Natural Resources  
House Committee on Finance  
Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means

**Background:** The Puget Sound water quality management plan requires local conservation districts to cooperate with commercial and non-commercial farms to implement plans and management practices to reduce water quality impacts caused by non-point pollution. To meet this requirement, local conservation districts work with property owners to develop farm plans that incorporate various actions commonly referred to as best management practices. These practices include activities such as fencing cattle from streams, planting trees alongside water bodies to reduce water temperature, and restoring and enhancing wetlands.

Real and personal property in this state is generally subject to a property tax. Property is assessed at its true and fair market value, unless the property qualifies under a special valuation program. The tax is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located.

The federal Endangered Species Act (ESA) makes it unlawful to "take" any endangered species of fish or wildlife. Applicants seeking a permit for incidental taking of endangered species of fish or wildlife must provide the secretary of the Department of the Interior (the secretary of the Department of Commerce for salmon species) habitat conservation plans. Compensatory mitigation projects are actions required by an agency to compensate for the environmental impacts of a permitted development project.

**Summary:** Improvements to real and personal property are excluded from property tax assessment if the improvement is a part of a written conservation plan that provides benefits to wildlife habitat, water quality, or water quantity. The conservation plan must be approved by a local conservation district. Conservation districts must work

with the state and federal natural resource agencies, and nonprofit organizations to include practices, arranged by these entities and landowners, in conservation plans. Habitat conservation plans, under the terms of the federal Endangered Species Act, and compensatory mitigation projects are not eligible for property tax exemption.

A landowner may file a claim with a county assessor to receive the tax exemption. The claim must include the district's certification of the conservation plan and the landowner must verify that the improvements have been maintained as provided in the plan. Conservation districts are directed to keep a current list of property owners that have entered into a conservation plan that provides specific natural resource benefits. The districts must provide the list to the appropriate county tax assessor.

**Votes on Final Passage:**

House 96 0  
Senate 43 0 (Senate amended)  
House 97 0 (House concurred)

**Effective:** July 27, 1997

**SHB 1565**

C 415 L 97

Exempting small scale mining from the requirement of obtaining a hydraulic permit.

By House Committee on Natural Resources (originally sponsored by Representatives Mielke, Pennington, Carrell, Mulliken, Thompson and Cairnes).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Fish and Wildlife is authorized to regulate mining activities within the high watermark of streams, rivers, and other water bodies of the state. The regulation occurs through the hydraulic permit approval (HPA) process. A written HPA permit is not required for persons who pan for gold using hand tools, including panning, mini-rocker boxes, and certain non-motorized sluice boxes if the persons follow the provisions in the department's "Gold and Fish" pamphlet. The "Gold and Fish" pamphlet that describes when, where, and how gold mining can take place. Gold mining using motorized sluice boxes and dredging require a written HPA permit.

**Summary:** By December 31, 1998, the Department of Fish and Wildlife is directed to adopt a rule to regulate small scale prospecting activities. The department must cooperate with the small scale prospecting community and other interested parties in developing the rule. Within two months of rule adoption, the department must update and distribute a revised "Gold and Fish" pamphlet.

"Small scale mineral prospecting" is defined as activities that use pans, sluice boxes, concentrators, concentrators, or mini-rocker boxes. Small-scale mineral

## HB 1573

prospecting activities do not require a written HPA permit if the provisions established by the department are followed.

### Votes on Final Passage:

House	97	0	
Senate	29	19	(Senate amended)
House			(House refused to concur)

### Conference Committee

Senate	42	1
House	98	0

Effective: July 27, 1997

## HB 1573

C 104 L 97

Authorizing educational agencies to rent, sell, or transfer assistive technology.

By Representatives Dunn, Ogden, Carlson, Mason, Radcliff, Kenney, Cole, Wolfe, Van Luven, Sheldon, O'Brien, D. Schmidt, Alexander, Mielke, Cooke, Boldt, Keiser, Costa and Cooper.

House Committee on Education

Senate Committee on Education

**Background:** School districts, educational service districts, or any state or local governmental agency concerned with education may declare material as surplus, including textbooks, other books, equipment, portable facilities, or other materials. If the district or agency declares the material as surplus, then it must notify the public and any public or private school that asks to be notified that the surplus material is available for sale, rent, or lease at depreciated cost or fair market value, whichever is greater, to public or private schools. The district or agency must give priority to students who wish to purchase surplus textbooks, and must wait 30 days following the public notice before disposing of the property.

An "assistive device" is any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities. Assistive devices include such items as handmade picture boards, communication technology, and adaptive communication equipment and related software.

**Summary:** School districts or agencies concerned with education may loan, lease, sell, or transfer assistive devices to children with disabilities, their parents, or to public or private nonprofit agencies serving children with disabilities. Districts or agencies do not have to declare assistive technology as surplus before disposing of the technology, or give public notice of the disposal of surplus assistive technology.

Districts or agencies must record the sale or transfer of an assistive device and must base the amount on the item's

depreciated value. Districts or agencies must conduct an annual inventory of assistive technology devices that exceed \$100 and establish an annual depreciation schedule.

Districts or agencies may develop interagency agreements to acquire, jointly fund, maintain, sell, loan, lease or transfer assistive devices.

Districts or agencies may collaborate in providing assistive technology services, including, but not limited to, assistive technology assessments and training. "Assistive technology service" is a service that directly assists a child with a disability in selecting, acquiring, or using an assistive technology device. Assistive technology services include:

- evaluating the needs of a child with a disability, including evaluating the child in the child's customary environment;
- purchasing, leasing, or providing for the acquisition of assistive technology devices;
- selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- training or assisting a child with a disability, or, if appropriate, the child's family; and
- training or assisting professionals, including those who provide education and rehabilitation services, employers, or others who are involved in the lives of children with disabilities.

### Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 27, 1997

## ESHB 1576

### FULL VETO

Modifying buildable lands under growth management.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Sherstad, Cairnes, Mulliken, Reams, Koster, Mielke, Dunn, McMorris, Pennington, Sheahan and Thompson).

House Committee on Government Reform & Land Use

House Committee on Appropriations

Senate Committee on Government Operations

**Background:** The Growth Management Act (GMA) was enacted in 1990 and 1991. A county meeting certain population and growth criteria is required to plan under the GMA. A county may also bring itself within the GMA planning requirements by resolution.

The primary planning requirement under the GMA is the adoption of a comprehensive plan. A plan must include, among other things, a land use element, a housing element, and a transportation element. Goals are set forth to guide the adoption of comprehensive plans. These include the encouragement of development in urban areas and the reduction of sprawl.

A comprehensive plan must include designations of urban growth areas within which urban growth is to be encouraged and outside of which growth may occur only if it is non-urban. Urban growth areas in the county must include land areas and densities sufficient to accommodate the projected 20-year urban growth. A county may consider a reasonable land market supply and other local factors when designating urban growth areas.

Each county must review its urban growth areas at least every 10 years. The comprehensive plan and densities permitted must be revised to accommodate the projected urban growth. At least once every 10 years, the Office of Financial Management prepares 20-year population projections for each county.

**Summary:** The Legislature finds that land use planning needs to ensure that an adequate supply of land appropriate for development is actually available for development. Merely regulating land to allow for development is insufficient. Further, local governments need to analyze whether sufficient land exists to provide for both residential and nonresidential needs.

The responsibility to accommodate urban growth is placed on cities as well as counties.

Upon the 10-year review of an urban growth area or any other review, but at least by July 1, 1999, specified counties must:

- inventory the supply of lands available for development within the urban growth area;
- determine the density of development likely to occur on the inventoried lands;
- determine the actual density and the actual average mix of types of development that have occurred within the urban growth area since the last review or five years, whichever is greater;
- analyze housing need by type and density range to determine the amount of land needed for each needed housing type for the next 20 years;
- conduct an analysis of nonresidential development needed to serve the commercial, office, retail, industrial, and public service and facility needs for the next 20 years; and
- compare the inventory with the needs.

The provisions apply to King, Pierce, Snohomish, Clark, Kitsap, and Thurston counties.

Land available for development include both vacant land and developed land that is likely to be redeveloped. Land which is developed with a building occupied and habitable with an assessed value greater than the assessed

value of the land may not be considered developed land likely to be redeveloped. To be considered suitable for development, land must be 1) outside critical areas; 2) serviced by necessary utilities or the capital facilities element of the comprehensive plan; and 3) capable of being developed without causing the service level of a transportation facility to decline below the transportation element in the comprehensive plan.

If a review indicates that the urban growth area does not contain sufficient lands to accommodate the needs, the county must either (a) amend its urban growth area; (b) adopt new, incentive-based measures that demonstrably increase the likelihood that development will occur at densities sufficient to accommodate the projected needs without expansion of the urban growth area; or (c) any combination of (a) or (b). If the county adopts incentive-based measures and monitoring shows that development has not occurred at densities sufficient to accommodate the needs, the county must amend its urban growth area.

If a review indicates the urban growth area within a city or town does not contain sufficient lands to accommodate the needs, the city or town must also adopt new, incentive-based measures.

Counties, cities, or towns choosing incentive-based measures must monitor and record the level of development activity and density by housing type. At a minimum, the county, city, or town must ensure that land zoned for development is in locations appropriate for the types of development identified and is zoned at density ranges that are likely to be achieved by the market.

Incentive-based measures must be part of development regulations, available to all applicable properties within the zone, not negotiated on a case-by-case basis, and may include:

- Financial incentives for higher density development, including removal of impact fees;
- Removal or easing of approval standards or procedures;
- Redevelopment and infill strategies; and
- Authorization of housing types not previously allowed.

A county must annually update the inventory and determinations. At least every five years, a county and city must take any steps required if the lands are insufficient to accommodate the needs.

The Office of Financial Management must prepare 20-year population projections every five years beginning in 2001, rather than every 10 years.

**Votes on Final Passage:**

House	62	36
Senate	29	20

**VETO MESSAGE ON HB 1576-S**

*April 25, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington  
Ladies and Gentlemen:*

I am returning herewith, without my approval, Engrossed Substitute House Bill 1576 entitled:

"AN ACT Relating to buildable Lands;"

The issue of land availability within the urban growth areas established by the Growth Management Act has been addressed by the Land Use Study Commission. The Commission spent a great deal of time gathering input from a wide variety of interest groups, reviewing the options, and finally reaching a consensus on buildable lands, among other issues.

As I have previously stated, I value the work of the Commission and support the legislation that was developed as a result of its work. Approval of this bill would undermine the consensus process established by the Commission by allowing one group to achieve its objectives, without balancing the interests of others.

I am particularly troubled by the exclusionary definitions in section 4 and the prescriptive language in section 5. I have proposed legislation at the recommendation of the Land Use Study Commission that provides more flexibility for local government decision makers in implementing the Growth Management Act. Sections 4 and 5 of this bill steer the land use planning process in the opposite direction.

For these reasons, I have vetoed Engrossed Substitute House Bill 1576 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

EHB 1581

C 265 L 97

Changing provisions relating to disruptive students and offenders in schools.

By Representatives Sterk, Quall, Cooper, Hatfield, Kastama, Talcott, Robertson, D. Schmidt, Sump, Mulliken, Johnson, Smith, Crouse, Boldt, Dunn, Sheahan, Schoesler, Carrell, Thompson, Honeyford, Bush, Keiser, Kessler and Morris.

House Committee on Education  
Senate Committee on Education

**Background:** Juvenile sex offenders. When a juvenile sex offender is released from a state juvenile institution on parole, the sex offender may not attend a public elementary, middle, or high school that is attended by the victim. The parents of the sex offender are responsible for the costs of transporting the sex offender to another school. Some juvenile sex offenders are not committed to a state juvenile institution. Rather, they are treated in the community and placed under community supervision. The prohibition on attending the same school as the victim does not apply to these juvenile sex offenders.

Notice of release of certain offenders. When a juvenile who has been adjudicated of a sex, violent, or stalking offense will be released, paroled, or transferred to a group home, the secretary of the Department of Social and Health Services must notify the private schools and the common school board of directors of the district in which

the offender intends to reside or the district in which the offender last attended school, as appropriate.

Nonresident students. School districts must adopt policies establishing rationale, fair, and equitable standards for accepting nonresident students. The districts must consider all applications equally. A school district may reject a nonresident student if acceptance of the student would create a financial hardship for the district.

Firearms on school grounds. A student who improperly brings a firearm onto school grounds must be expelled for at least one year.

**Summary:** Juvenile sex offenders. The prohibition against a juvenile sex offender attending the same school as the juvenile sex offender's victim is extended to the same school as the victim's siblings. It is also expanded to include approved private schools. The secretary of the Department of Social and Health Services must also notify approved private schools when a sex offender will be released on parole.

Juvenile sex offenders who are not committed to a state institution, but who will be given a community based treatment disposition, also may not attend the same school as the victim or the victim's siblings. The parents must provide transportation for the student to any new school. The court must notify the applicable local public and approved private schools at the earliest possible date but not later than 10 calendar days after entry of the disposition.

Notice of transfer of offenders. The requirement to notify schools of the release or transfer of certain offenders is expanded to require the department to notify schools when an offender under the jurisdiction of the department will be transferred to a group home.

Nonresident students. A school district may refuse to accept a nonresident student if the student's disciplinary records indicate a history of violent or disruptive behavior or gang membership, or the student has been expelled or suspended from a public school for more than 10 consecutive days. Any readmission policy must apply uniformly to resident and nonresident students. A "gang" is defined.

Firearms on school grounds. A school district may suspend a student for up to one year if the student acts with malice and displays an instrument that appears to be a firearm on public school property, public school-provided transportation, or other facilities when being used exclusively by public schools.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	41	0
House	97	0

**Effective:** July 27, 1997

## SHB 1585

C 161 L 97

Authorizing the state investment board to delegate certain powers and duties.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Huff, L. Thomas, Clements, H. Sommers, Wolfe and Carlson; by request of State Investment Board).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** The Legislature created the Washington State Investment Board in 1981 to administer public trust and retirement funds. There are 14 members that serve on the board: one active member of the Public Employees Retirement System, one active member of the Law Enforcement Officers and Firefighters Retirement System, one active member of the Teachers Retirement System, the state treasurer, a member of the state House of Representatives, a member of the state Senate, a representative of retired state employees, the director of the Department of Labor and Industries, the director of the Department of Retirement Systems, and five nonvoting members appointed by the State Investment Board with experience in making investments.

Washington law requires that the State Investment Board establish investment policies and procedures that are designed to maximize return at a prudent level of risk.

The State Investment Board manages 23 funds which total approximately \$35 billion. The board has the authority to hire an executive director for a three-year term. The board may delegate to the executive director any of its powers or duties. The State Investment Board utilizes external investment advisors and managers that possess specialized skills in various investment markets.

**Summary:** The State Investment Board's executive director may delegate to his or her staff selective powers or duties given to the executive director by the board. The powers that may be delegated include the ability to make and execute investment decisions on behalf of the board. The board or the executive director is permitted to give private sector investment advisors and managers authority to make, manage, or dispose of investments according to criteria established by the board or the executive director.

**Votes on Final Passage:**

House	94	0
Senate	47	0

**Effective:** July 27, 1997

## HB 1588

C 224 L 97

Exempting hearing instruments from sales and use tax.

By Representatives Mulliken, Dickerson, Kastama, Thompson, Boldt, Clements, Romero, Mason, Conway, Blalock, Hatfield, Scott, O'Brien, Costa, Ogden, Dunn, Kessler, Kenney and Cooper.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state, when the acquisition of the item or service has not been subject to sales tax. Services subject to sales and use tax include the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property. The combined state and local sales and use tax rate is between 7 percent and 8.6 percent, depending on location.

Washington law provides for some sales and use tax exemptions. Sales of hearing instruments and replacement parts are exempt. However, sales and use taxes apply to labor and service charges for repairing, cleaning, or altering a hearing instrument.

The Legislature originally exempted hearing aids from sales and use tax in 1986. Subsequent to its enactment, the Department of Revenue issued a number of publications explaining the hearing aid and other tax exemptions. At least three publications erroneously stated that hearing aid repairs were also exempt from sales and use tax. More recent publications have corrected the error. The department, however, reports that very little, if any, tax is currently collected on hearing aid repairs.

**Summary:** Labor and service charges for repairing, cleaning, or altering a hearing instrument are exempted from retail sales and use taxes.

**Votes on Final Passage:**

House	96	0
Senate	46	1

**Effective:** October 1, 1998

## HB 1589

C 343 L 97

Allowing a crime victim to have an advocate present at any judicial proceeding.

By Representatives Robertson, Costa, Radcliff, Cody, Scott, Cole, Skinner, Lantz, Constantine, Delvin, K. Schmidt, Murray, Hankins, Blalock, Hatfield, Wensman, O'Brien, Linville, Cooke, Ogden, Sheldon, Kessler and Kenney.

## HB 1590

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** The Legislature has explicitly recognized not only the impact of crime on victims, survivors of victims, and witnesses of crime, but also the civic and moral duty of those individuals to fully and voluntarily cooperate with law enforcement and prosecutorial agencies.

The crime victims law provides, among other things, that there must be a reasonable effort to ensure the right of a victim of a violent or sex crime to have an advocate present at any prosecutorial or defense interview with the victim.

The right to have an advocate present applies if the presiding judge determines that it is practical and would not cause an unnecessary delay in the investigation or prosecution of the case. The role of the advocate is to provide emotional support to the victim.

**Summary:** The proceedings at which a crime victim advocate's presence may be allowed are expanded to include any judicial proceeding related to criminal acts committed against the victim, not just interviews with the victim.

**Votes on Final Passage:**

House	97	0	
Senate	46	0	(Senate amended)
House	92	0	(House concurred)

**Effective:** July 27, 1997

## HB 1590

C 55 L 97

Defining health plan.

By Representatives Dyer and Backlund.

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** There are three primary types of health carriers: (1) traditional health insurers that provide reimbursement for or payment of covered health services; (2) health care service contractors which are associations of providers that provide health care services; and (3) health maintenance organizations that provide health care services. Health carriers are regulated by the Office of the Insurance Commissioner (OIC).

A health plan is defined as any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care, except for: (1) long-term care insurance; (2) Medicare supplements; (3) limited health care service contracts; (4) disability income insurance; (5) incidental property and casualty insurance coverage; (6) workers' compensation coverage; (7) accident only insurance; (8) specified disease supplemental coverage; (9) employer-sponsored self-funded health plans; and (10) dental or vision only plans.

Health carriers offering health plans must meet certain requirements, and the health plans themselves must also meet certain requirements. For instance, health carriers that offer any health plan must offer individuals or employers with 26 to 50 employees a plan equivalent to the services contained in the Basic Health Plan. Some health plans offered to individuals and employers with 26 or more employees must include statutorily mandated benefits. Also, health plans for individuals and employers with 50 or fewer employees are subject to adjusted community rating.

**Summary:** Plans deemed by the insurance commissioner to have a short-term or limited purpose, or to be student-only plans, are excluded from the definition of health plan.

**Votes on Final Passage:**

House	95	0
Senate	47	0

**Effective:** April 16, 1997

## SHB 1592

C 407 L 97

Providing tax exemptions for small water districts and systems.

By House Committee on Finance (originally sponsored by Representatives Bush, Kastama, Mulliken, Regala, K. Schmidt, McDonald, Lantz, Robertson, Chandler, Poulsen, Talcott, Backlund, McMorris, Thompson, O'Brien, Linville, Dunn and Sheldon).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** According to a 1994 report by the Department of Health, Washington has over 14,000 water systems. About 200 of these systems serve over 85 percent of the state's population. In contrast, 10,000 of the state's water systems serve only 2 percent of the state's population. Most small water systems are privately owned.

All water systems serving at least 25 persons or 15 connections must meet federal Safe Drinking Water Act requirements. The Safe Drinking Water Act requires water testing for more than 100 different types of contaminants. If tests indicate the presence of contaminants, then additional testing, treatment and system upgrades may be required. A water system using surface water as its source must also filter the water. Fulfilling water testing, filtration, and treatment obligations imposes costs on water systems. The cost per customer in meeting these obligations can be high for small systems, since small systems must spread costs over a smaller customer base and cannot realize economies of scale.

In Washington, the Department of Health enforces federal and state safe drinking water standards. In 1993, the department formed a "Drinking Water 2000" task force to



review the state's drinking water program. In response to the task force's report, legislation was enacted in 1995 that, among other provisions, established a water supply advisory committee and a new drinking water assistance account and requires certified operators for some water systems and the use of a satellite system management agency whenever possible.

The Department of Health is responsible for certifying a satellite management agency (SMA) as qualified to assume operation and/or ownership of an existing or proposed water system. To obtain certification, a SMA must demonstrate financial integrity and operational competence. Satellite system management agencies may operate one or more systems. The Department of Health has set a goal of having at least one SMA in each county but that goal has not been attained.

To finance capital improvements to water systems, local governments have been able to borrow from the state's Public Works Trust Fund. The Legislature also created a drinking water assistance account in 1995 to receive federal funds made available for safe drinking water. Congress has recently appropriated money for a new state revolving loan fund program to finance water system improvements, and an appendix to a 1996 report on drinking water by the Department of Health indicates that privately-owned water systems should be eligible to receive funding of financial assistance through the new revolving loan program for the benefit of consumers. The appendix also indicates, however, a need to explore how state assistance could be provided to private systems in a manner consistent with the state's laws.

In Washington, public and privately owned utilities, and certain other businesses, are subject to the public utility tax instead of the business and occupation (B&O) tax. Like the B&O tax, the public utility tax is applied to the gross receipts of the business. The principal difference between the B&O tax and the public utility tax is rates. Water distribution businesses pay a public utility tax of 5.029 percent on gross receipts. A 1.50 percent B&O tax rate applies to non-utility services.

A public utility business exempted from public utility tax becomes subject to the B&O tax.

**Summary:** Until July 1, 2003, public utility tax and B&O tax do not apply to gross receipts generated on sales of water services for the following businesses:

- water-sewer districts that:
  - (1) serve fewer than 1,500 connections; and
  - (2) charge a residential water rate exceeding 125 percent of the average statewide water rate.
- water systems owned or operated by a satellite system management agency that:
  - (1) serve fewer than 200 connections; and
  - (2) charge a residential water rate exceeding 125 percent of the average statewide water rate.

A water system claiming these tax exemptions must prove to the Department of Health that at least 90 percent

of the value of the tax exemptions has been used to repair, equip, upgrade, or maintain the system.

To determine which water-sewer districts and water systems are eligible for the exemptions, the Department of Health will estimate a statewide average residential water rate by July 1 of each year. The Department of Health may use rate information provided in surveys and reports produced by the Association of Washington Cities, an association of elected officials, or other municipal associations to estimate a statewide average residential rate.

**Votes on Final Passage:**

House	93	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

**Effective:** July 27, 1997

**HB 1593**

C 190 L 97

Collecting solid waste or recyclables.

By Representatives Scott, Zellinsky and Sheldon.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The law prohibits the transportation of persons on the running board, fenders, hood or other outside parts of a motor vehicle except an authorized emergency vehicle, such as a fire truck. It is a common practice in many parts of the state, in both public and private garbage and trash collection, to have a "swamper" ride on the rear platform of the truck while the vehicle is proceeding down the street collecting trash. This practice usually occurs when the truck is on route collecting trash from homes and businesses while traveling at speeds of less than 20 miles per hour (mph). The swamper rides inside the vehicle when the vehicle is traveling to or from the operations base, a landfill, or transfer station.

Most rear-loading garbage trucks require the employee to climb up to access the cab. This makes collection more laborious as it places a greater physical strain on the swamper and increases the amount of time required to finish a route.

**Summary:** Garbage trucks collecting garbage or recyclables on route at speeds of 20 mph or less may legally transport the swamper on the outside of the vehicle.

**Votes on Final Passage:**

House	91	4
Senate	43	0

**Effective:** July 27, 1997

**SHB 1594**

C 191 L 97

Relaxing front end length limits on garbage trucks.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Zellinsky, Scott and Sheldon).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Front-loading garbage and recycling trucks are being used with increasing frequency in the collection of solid waste. These vehicles are more efficient than the traditional rear-loading, high-entry vehicles due to the larger carrying capacity.

A front-loader is a truck with: (1) a cargo hold and compressor behind the cab; and (2) a "fork" and "bucket" in front of the cab. The fork lifts the bucket from the front of the vehicle, over the cab, and then the bucket turns with gravity to deposit the trash in the cargo hold. The garbage is then compacted to the rear of the truck.

The length a vehicle or load may extend beyond the front wheels or bumper is restricted by law to three feet. Because front-loaders are one to two feet over the legal limit, these vehicles are technically subject to special overlength permits (\$10/trip or month, \$120/year) issued by the Department of Transportation (DOT).

**Summary:** Front-loading garbage and recycling trucks are exempt from the three-foot vehicle front extension length limit when on route and actually collecting solid waste or recyclables at speeds of 20 miles per hour or less. (The exemption allows these vehicles to operate without the DOT special overlength permits.)

**Votes on Final Passage:**

House 95 0  
Senate 42 0

**Effective:** July 27, 1997

**SHB 1600**

C 192 L 97

Revising provisions relating to surface mining permits.

By House Committee on Natural Resources (originally sponsored by Representatives Sheldon and Buck).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** In 1993, the Legislature substantially rewrote the state's surface mining laws, establishing new standards for reclamation and new guidance on the information necessary to have a reclamation plan approved by the Department of Natural Resources. The new standards apply to reclamation permits issued after July 1, 1993. Mine operating permits issued prior to July 1, 1993 may

be considered reclamation permits if, by July 1, 1998, the permits meet the protections, mitigations, and reclamation goals of the 1993 legislation. With this five-year interval coming to a close, more than 600 plans and operations permitted prior to 1993 have yet to be updated by the permit holders.

The department has the authority to require that a reclamation plan be updated at least every 10 years. The department and the permit holder may modify the reclamation plan during the term of the permit for any of the following three reasons: (1) to modify the requirements so that they do not conflict with existing or new laws; (2) the department determines that the current plan is impossible or impracticable to implement or maintain; or (3) the plan is not accomplishing the intent of the surface mining law as determined by the department.

**Summary:** The requirement is removed for mine operating permits issued before July 1, 1993, to be reviewed within five years of that date before being considered reclamation permits. A permit holder may modify a reclamation plan at any time during the term of the permit if the modified plan meets the protections, mitigations, and reclamation goals established in the 1993 legislation. The Department of Natural Resources may require a permit holder to modify a reclamation plan if the department determines that the previously approved plan has not been modified during the past 10 years or that the permit holder has violated or is not substantially following the previously approved reclamation plan.

**Votes on Final Passage:**

House 97 0  
Senate 46 2

**Effective:** July 27, 1997

**HB 1604**

C 193 L 97

Clarifying advertising requirements for limousines.

By Representatives Cairnes, O'Brien, Radcliff, Hankins, Mielke, K. Schmidt, Fisher, Mitchell, Skinner, Johnson, Hatfield, Buck and Clements.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** In 1995, legislation was enacted to clarify the jurisdictional responsibility for the regulation of taxicabs, limousines and luxury cars. The regulation of limousines was transferred from the Utilities and Transportation Commission to the Department of Licensing (DOL). The department regulates entry, equipment, chauffeur qualifications, and operations. No rate or route regulation may be imposed. In addition, the Port of Seattle regulates limousines with regard to entry, chauffeur qualifications, operations, and equipment at SeaTac International Airport; cities, counties and port districts may

regulate taxicab companies with regard to entry, rates, routes, safety and equipment.

A limousine carrier must use the unified business identifier (UBI) when advertising and specify the type of service being offered (stretch limo, executive sedan or van, or classic auto). The UBI is the business license number issued by the DOL, similar to a building contractor's registration number. Limousine operators are required to list their UBI when advertising in the alphabetical listing and display ads in the yellow and white pages of the telephone book. Building contractors have the option of omitting the contractor's registration number and displaying only the name, address and telephone number when advertising in the alphabetical listing.

**Summary:** A limousine carrier is not required to use the UBI when advertising in the alphabetical listing in a phone directory. (The UBI would still be required when advertising in a display ad.)

**Votes on Final Passage:**

House	97	0
Senate	42	0

**Effective:** July 27, 1997

## SHB 1605

C 345 L 97

Providing for disclosure of information concerning the disease status of offenders.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Radcliff, Ballasiotes, Quall, Dunn and Sullivan).

House Committee on Criminal Justice & Corrections  
Senate Committee on Human Services & Corrections

**Background:** HIV testing generally involves laboratory examination of blood specimens for presence of the human immunodeficiency virus or antigens.

Federal and state laws require the use of "universal precautions" whenever an employee has exposure to blood or potentially infectious materials. "Universal precautions" is an approach to infection control that calls for all human blood and certain human body fluids to be treated as if they are infectious for blood-borne pathogens, including HIV.

**Requests for tests of another person.** Law enforcement officers, fire fighters, health care providers or other persons who have been substantially exposed to a person's bodily fluids may request that a local public health official require the other person to submit to an HIV test. The results of that test may be released to the exposed person. If the person refuses, the public health officer may petition the court for a hearing.

**HIV testing of offenders.** Criminal offenders are tested for the HIV virus under various circumstances. Some of

the testing is done pursuant to statutory mandate; other testing is done based on the offender's voluntary request.

Mandatory HIV testing of offenders occurs under two circumstances. First, testing is required upon the conviction of certain offenses, including sex offenses and prostitution offenses. Second, testing may be required if an inmate's actual or threatened behavior shows a possible risk to staff, public, or others. The "possible risk" determination is made by the Department of Corrections (DOC) with respect to state prison inmates, and by local public health officers with respect to jail detainees.

HIV testing of offenders also occurs when voluntarily requested by the offender.

**Disclosure of offenders' HIV test results.** State law provides that HIV test results may not be disclosed absent specific statutory authorization. Unauthorized disclosure is prohibited and may lead to disciplinary action or other penalties prescribed by law. Violations of the laws regarding HIV testing, including the provisions limiting disclosure, are gross misdemeanors.

The DOC's health care providers must make the sexually transmitted disease status of an inmate available to a superintendent "as necessary" for disease control and for protection of staff, offenders, and the public. The information may also be given to transporting officers and receiving facilities. Local public health officers may make the sexually transmitted disease status of a jail inmate available to a jail administrator under similar circumstances.

The superintendent or administrator may disclose the information only as necessary for the purposes of disease control and protection of others. These provisions apply equally to voluntary and mandatory testing.

The Washington State Supreme Court has held that the current law regarding HIV testing of offenders and the dissemination of those results do not violate an offender's constitutional right to privacy. The basis for the court's holding was that the state's reasons for having the testing performed are compelling, the testing is narrowly tailored to meet those reasons, and disclosure is limited.

**Summary: Statement of intent and finding.** The Legislature finds that the health and safety of jail and corrections staff are often placed in jeopardy while they work. The Legislature intends to notify a staff person of the HIV status of an inmate if a staff person has been substantially exposed to an inmate's bodily fluids and the HIV test of the inmate is mandatory. The Legislature does not intend to discourage voluntary testing for HIV, mandate disclosure of test results voluntarily obtained, or discourage use of universal precautions.

**Requests for tests.** Jail staff persons and corrections staff persons are added to the list of workers who may ask a local public health officer to perform a test on another person if the corrections or jail staff person is substantially exposed to the inmate's bodily fluids.

## SHB 1607

**Disclosure of results of mandatory tests.** Local public health officers, in addition to the DOC health care staff, must make the sexually transmitted disease status of an offender available to the DOC health care administrator or infection control coordinator of the facility in which the offender is housed. Similar rules apply to availability of tests to jail health care administrators. The results of a mandatory test must be disclosed immediately to a staff person who has been substantially exposed to the offender's bodily fluids. Disclosure must be accompanied by appropriate counseling. Disclosure must also include information about restrictions on disseminating the information further and the penalties that may be imposed on the staff member for violating those restrictions. The staff person must also be informed if the offender had any other known communicable disease when the staff person was exposed to the offender's bodily fluids.

**Disclosure of results of voluntary tests.** Results of voluntary testing may not be made available to individual staff members unless the staff person has been substantially exposed to the offender's bodily fluids, in which case the staff person may request that the offender be tested. The superintendent or administrator may provide the staff member with information about how to obtain the offender's test results. If a public health official refuses to order the offender to be tested, the exposed person may petition the court directly. The hearing on a petition must be heard within 72 hours.

**Rule-making.** The Department of Health and the DOC are to adopt rules implementing these changes. They are also to report to the Legislature by January 1, 1998, regarding (1) relevant changes in rules, policies, and procedures; and (2) the number and circumstances under which the sexually transmitted or communicable disease status of an inmate is told to a staff person.

**Guidelines.** The department and jail administrators must develop policies and procedures for distribution of communicable disease prevention guidelines.

### Votes on Final Passage:

House	94	3	
Senate	43	2	(Senate amended)
House			(House refused to concur)
Senate	38	0	(Senate amended)
House	95	3	(House concurred)

**Effective:** July 27, 1997

## SHB 1607

C 416 L 97

Providing for industrial insurance self-insurers to determine benefits for permanent disability.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Thompson,

Dyer, Sheldon, Boldt, Honeyford, Lisk, Clements, Mulliken and Mielke).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Department of Labor and Industries supervises all determinations of permanent disability in industrial insurance claims and closes all claims involving a permanent disability, whether the injured worker is insured by the state fund or covered by a self-insured employer.

Self-insurers are authorized to close only those claims that do not involve a permanent disability and that meet the criteria established by statute. The self-insurer must request the department to close other claims. If a self-insurer closes a claim, the order must include notice of the worker's right to protest the order to the department within 60 days. If a protest is filed, the department must review the closure and enter a determinative order.

When the department issues a final order, the order must state that it will become final unless, within 60 days of the date that the order is communicated, a written request for reconsideration is filed with the department or an appeal is filed with the Board of Industrial Insurance Appeals.

**Summary:** Beginning with claims accepted after July 31, 1997, self-insured employers are authorized to close certain industrial insurance claims that involve a determination of permanent partial disability (PPD).

The claims that self-insurers may close must be undisputed and must involve a worker who has returned to work with the self-insurer of record at his or her previous job or a job with comparable wages and benefits. For these claims, the self-insurer may initiate the permanent partial disability determination and may require the worker to undergo a special medical examination.

Before closing the claim, a self-insurer must get a supplemental medical opinion from a provider approved by the Department of Labor and Industries if: (1) a physician submits a report to a self-insurer that concludes that the worker's condition is fixed and stable and supports payment of a PPD award; and (2) the worker's attending or treating physician disagrees in writing within 14 days that the worker's condition is fixed and stable.

Alternatively, if the worker's physician disagrees, the self-insurer may forward the claim to the department for action.

On closing one of these claims, the self-insurer must notify the department and the worker in writing that the claim is being closed with medical benefits or time-loss compensation, or both, and an award for permanent partial disability, if applicable. The notice to the worker must include information about the worker's right to protest the closure to the department. If the department receives a protest, the self-insurer's order must be held in abeyance and the department must review the closure and enter a determinative order. If no protest is filed, the self-

insurer's order becomes final and has the same effect as a department order that has become final.

The department must review self-insurers' PPD claims closure activity and the claims closure activity of the department's self-insured section and report to the Legislature by January 1, 2000.

**Votes on Final Passage:**

House	56	40	
Senate	27	21	(Senate amended)
House	60	38	(House concurred)

**Effective:** July 27, 1997

**HB 1609**

C 243 L 97

Limiting the number of times the maximum disposal fee at a radioactive waste disposal site may be adjusted.

By House Committee on Energy & Utilities (originally sponsored by Representatives Mastin, Poulsen, Hankins and Kessler; by request of Utilities & Transportation Commission).

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** In 1980, Congress passed the Low Level Radioactive Waste Policy Act, which allows states to form compacts to manage commercial low-level radioactive waste (LLRW) generated within a given compact region. Washington is a member of the Northwest Interstate Compact; other compact members are Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Wyoming.

Typical LLRW includes contaminated tools, rags, clothing, wood, filters, medical materials, and some industrial wastes, from such sources as hospitals, research institutions, radiopharmaceutical industries, and nuclear utilities.

The only site available for disposing of LLRW generated in the eight states that are members of the Northwest Interstate Compact is located on the Hanford Reservation in Eastern Washington. An agreement between the Northwest Interstate Compact and the Rocky Mountain Compact allows the site to accept limited quantities of LLRW from Colorado, Nevada, and New Mexico as well.

In 1991, the Legislature enacted legislation requiring the site operator to be subject to rate regulation by the Washington Utilities and Transportation Commission. The maximum disposal rates are adjusted semi-annually in January and July each year to incorporate inflation and volume adjustments.

**Summary:** Maximum disposal rates for low-level radioactive waste will be adjusted once a year in January.

**Votes on Final Passage:**

House	97	0
Senate	47	0

**Effective:** July 27, 1997

**HB 1610**

C 162 L 97

Exempting regulated utilities from seeking commission preapproval of some short-term notes having a maturity of twelve or fewer months.

By Representatives DeBolt, Poulsen, Mastin, Hankins and Kessler; by request of Utilities & Transportation Commission).

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** A "public service company" is a natural gas, electricity, telecommunications, or water company whose rates and services are regulated by the Washington Utilities and Transportation Commission (WUTC).

The state has the authority to regulate security issuances by public service companies, and public service companies may issue securities only in accordance with applicable laws and regulations prescribed by the WUTC.

Prior to 1994, the law required public service companies to apply to the WUTC for approval before issuing securities. Public service companies could issue short-term notes meeting certain conditions without the prior consent of the WUTC, however.

If the total value of the note or notes, combined with all of the company's other outstanding notes and drafts with a maturity of 12 months or less, was not more than 5 percent of the par value of the company's other outstanding securities, the company could issue the note or notes without applying for prior WUTC approval. Otherwise, the short-term note had to meet the following conditions: (1) the note could not be a demand note; (2) the note had to be payable within 12 months after the date of issuance; (3) the note could not be refunded by any issue of stock or other evidence of ownership, or bonds or other evidence of indebtedness; and (4) if more than one note was issued as part of a single borrowing transaction, the notes had to total less than \$1 million and be payable at periods of less than 12 months.

In 1994, the Legislature repealed the provision requiring public service companies to apply to the WUTC for approval prior to issuing securities. The Legislature also repealed the provision exempting short-term notes from the application requirement. At the same time, the Legislature enacted provisions requiring a public service company to file a notice with the WUTC prior to issuing securities. The notice must: (1) describe the purpose of the issuance; (2) describe the issuance itself, including the

## HB 1615

terms of financing; and (3) state why the transaction is in the public interest.

Companies failing to comply with statutory requirements regarding securities issuances are subject to civil penalties; individuals failing to comply are guilty of a gross misdemeanor.

**Summary:** Public service companies may issue short-term notes without filing a prior notice with the Washington Utilities and Transportation Commission, if those notes meet the same conditions short-term notes had to meet before 1994.

### Votes on Final Passage:

House	94	0
Senate	48	0

Effective: July 27, 1997

## HB 1615

C 214 L 97

Changing provisions relating to offenses committed in state parks or parkways.

By Representatives Alexander, Regala and Sump; by request of Parks and Recreation Commission.

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** It is unlawful to cut, break, injure, destroy, or take vegetation or natural objects within a state park. Berry-picking, environmental education classes, and scientific studies are examples of activities that often violate this law. The Parks and Recreation Commission does not have authority to grant exemptions to this law.

**Summary:** The Parks and Recreation Commission is authorized to adopt rules allowing exemptions to the law prohibiting a the cutting, breaking or taking of vegetation or natural objects in state parks.

### Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 27, 1997

## SHB 1620

PARTIAL VETO

C 390 L 97

Abrogating the corporate practice of medicine doctrine.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Zellinsky, Cody, Skinner, Backlund and Sherstad).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** The "corporate practice of medicine" doctrine has evolved from case law, under which the court has held that health practitioners cannot be employed by a corporation unless the entity has only those individuals licensed to render the same professional services as its shareholders, directors, and officers. The rationale for these rulings is that corporate nonprofessionals cannot direct the course of licensed medical care. In essence, the doctrine restricts the employment of these practitioners, the ownership of their practices, and the distribution of profits from the practice through corporate enterprises.

The doctrine was developed at a time when the customary practice of health care was largely based on individual practices utilizing a fee-for-service system of reimbursement before the health market became characterized by managed care, capitated provider contracting, and a push toward multi-specialty integrated group practices.

The Legislature affirmed the doctrine with the enactment of a law authorizing the formation of "professional service corporations" that permits some regulated health professionals to render their services for pecuniary profit in association with the same or other health professionals.

**Summary:** The corporate practice of medicine doctrine is fully abrogated for all health care practitioners except dentistry and veterinary medicine, and this abrogation is not to be narrowly construed by the courts. Health care practitioners may use any lawful type of business organization to provide health care services, including professional service corporations or similar limited liability companies or partnerships.

Physicians and osteopathic physicians are included among regulated health professions that may associate together in forming single professional health service corporations or similar professional limited liability companies or partnerships.

The abrogation of the corporate practice of medicine doctrine does not affect the ethical obligation of health care practitioners, require them to violate any federal, state, or local laws.

### Votes on Final Passage:

House	94	0
Senate	40	0 (Senate amended)
House	92	0 (House concurred)

Effective: July 27, 1997

**Partial Veto Summary:** The Governor vetoed the repeal of the corporate practice of medicine doctrine, which reinstates the ban on providing health care services by corporations with non-licensed shareholders; and the retroactive effective date of January 1, 1997.

## VETO MESSAGE ON HB 1620-S

May 15, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 2, 6 and 7, Substitute House Bill No. 1620 entitled:

"AN ACT Relating to abrogating the corporate practice of medicine doctrine;"

Sections 1 and 2 of Substitute House Bill No. 1620 would have abrogated the corporate practice of medicine doctrine, as most recently articulated in Morelli v. Ehsan, 110 Wn.2d 555, 756 P.2d 129 (1988), on the basis that the doctrine is an impediment to the development of health care reform.

The corporate practice of medicine doctrine states that a corporation cannot engage in the practice of a learned profession through licensed employees unless legislatively authorized. (Morelli at 561) In essence, the doctrine prevents non-doctors from being shareholders in corporations, partners in partnerships, or members of limited liability companies formed to practice medicine.

While I completely agree that the law should not inhibit the development of corporations and other entities to enhance business opportunities in the medical field, abrogation of the doctrine could have unintended consequences. Abrogation would make it far easier for unscrupulous individuals to engage in insurance fraud, a growing problem in this state and nationally.

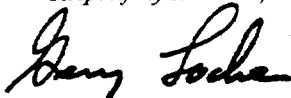
I urge insurance companies and other interested parties work with the legislature to develop legislation that would adequately address the problems the corporate practice of medicine doctrine is designed to prevent, yet also make Washington law more accommodating to modern forms of medical business entities.

Sections 6 and 7 would make the bill effective retroactively, to January 1, 1997. Retroactive application of this bill is unnecessary.

For these reasons, I have vetoed sections 1, 2, 6 and 7 of Substitute House Bill No. 1620.

With the exception of sections 1, 2, 6 and 7, Substitute House Bill No. 1620 is approved.

Respectfully submitted,



Gary Locke  
Governor

SHB 1632

C 378 L 97

Establishing a study group to determine whether further training for state investigators is needed.

By House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Scott, Reams, Kenney, Blalock, Dickerson, Wood, Ogden, Costa, Dunn, Tokuda, Butler and Cole; by request of Attorney General).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Various state agencies employ investigators, including the Washington State Patrol, Public

Disclosure Commission, Washington State Auditors Office, and the Office of the Attorney General.

**Summary:** A study group is created to develop mandatory training, policies and procedures for state investigators.

The study group consists of the following 13 members: The Attorney General, chief of the state patrol, State Auditor, one legislator from each caucus of the Senate and House of Representatives, a representative of the Governor's office, two representatives of state agencies appointed by the Governor, a representative appointed by the Washington Association of Prosecuting Attorneys, a representative appointed by the Washington Association of Sheriffs and Police Chiefs, and a representative appointed by the criminal justice program at the Washington State University. The Attorney General and chief of the state patrol co-chair the study group.

The Office of the Attorney General provides staff and administrative support for the study group.

The study group develops minimum training requirements, including training requirements for civil and criminal investigations, evaluates current training requirements and policies, recommends who will provide training, recommends basic policies and procedures for investigators, develops cost estimates for mandatory training, and makes recommendations on the scope of duties and responsibilities of state investigators. The study group is required to focus on state investigators in a number of state agencies, including the offices of the Attorney General and State Auditor.

The study group is directed to deliver its recommendations to the Legislature by December 1, 1997, and the law expires on June 1, 1998.

**Votes on Final Passage:**

House	97	0	
Senate	45	0	(Senate amended)
House	92	0	(House concurred)

**Effective:** July 27, 1997

HB 1636

C 105 L 97

Specifying imminence of threat to bodily harm for crime of harassment.

By Representatives Ballasiotes, Costa, Tokuda, Keiser, Ogden and Blalock.

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** A person is guilty of criminal harassment if: (a) without lawful authority, the person knowingly threatens to cause bodily injury in the future to the person threatened or to any other person; and (b) the person places the other person in reasonable fear that the threat will be carried out. Harassment is usually a gross misde-

## HB 1646

meano. However, it becomes a felony if the person harasses another by threatening to kill that person or any other person.

Recently, an appellate court interpreting the language in the harassment statute determined that a threat to cause immediate harm can constitute an assault, but not harassment, because harassment requires a threat to cause harm in the future. The court stated that to prove harassment the prosecutor must prove that the threat was to cause injury at a different time or place than the time or place where the defendant made the threat.

Under this court decision, a threat to kill immediately might not constitute felony harassment under certain circumstances. A threat to kill immediately could be charged as assault in the fourth degree, a gross misdemeanor, or a higher degree of assault, depending on the facts.

**Summary:** Criminal harassment includes a threat to cause bodily injury immediately or in the future.

### Votes on Final Passage:

House	97	0
Senate	46	0

**Effective:** July 27, 1997

## HB 1646

C 350 L 97

Extending the existence of the indeterminate sentence review board.

By Representatives Quall, Ballasiotes, Dickerson and Sullivan.

House Committee on Criminal Justice & Corrections  
Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means

**Background:** Since 1984, offenders convicted in Washington receive determinate sentences. Before July 1, 1984, however, an offender who committed a crime received an indeterminate sentence. Under indeterminate sentencing, an offender convicted by a superior court of Washington and sentenced to an institution was placed under the authority of the Indeterminate Sentence Review Board (ISRB).

At least 750 felons in prison and 450 on parole remain under the supervision of the ISRB for release and continued supervision to the end of their maximum term, or until granted a final discharge from supervision of the board. The board establishes the minimum prison sentence, evaluates readiness for parole release, sets conditions of parole release and returns offenders to prison for violations of their conditions of release.

The ISRB consists of seven members appointed by the Governor and confirmed by the Senate. The Governor designates one of the board members to serve as chairperson. Members of the board are prohibited from

participating in any other business or profession, or holding a public office during their tenure on the board.

ISRB will cease to exist June 30, 1998.

The Governor, through the Office of Financial Management, must recommend to the Legislature alternatives for carrying out the duties of the board. In developing recommendations, the Office of Financial Management must consult with the ISRB, The Washington Association of Prosecuting Attorneys, the Washington Defender Association, the Department of Corrections, and the Office of the Administrator for the Courts. The recommendations must include a detailed fiscal analysis and recommended formulas and procedures for the reimbursement of costs to local governments if necessary. Recommendations must be presented to the 1997 Legislature.

**Summary:** The membership of the Indeterminate Sentence Review Board (ISRB) is reduced from seven to three members.

Statutory criteria is provided for the executive ethics board to use in determining whether to allow outside employment by ISRB members, officers, and employees. Upon prior approval from the executive ethics board, members of the ISRB may participate in other businesses, professions, or hold a public office as long as it is not a conflict of interest, financial or otherwise, with their official ISRB duties.

The sunset of the Indeterminate Sentence Review Board is delayed for an additional 10 years. The board will cease to exist on June 30, 2008.

The date for the Governor to prepare recommendations regarding alternatives for carrying out the duties of board is extended from the year 1997 to the year 2007.

### Votes on Final Passage:

House	95	0
Senate	46	0 (Senate amended)
House	92	0 (House concurred)

**Effective:** July 27, 1997

## EHB 1647

C 433 L 97

Establishing a home tuition program.

By Representatives Radcliff, Van Luven, Mason, Carlson, Veloria, Morris, Ogden, Kenney and Costa.

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** Washington's baccalaureate institutions may enter into reciprocity agreements with colleges and universities in other states. Under the agreements, the institutions may exchange undergraduate students. The exchange students pay the resident tuition rate at the college or university they are attending for that year. In any year, the number of students coming to a Washington institution must be balanced by an equal number of



Washington students attending participating institutions in another state. By law, Washington's baccalaureate institutions may waive all or part of the non-resident differential for students participating in this program. Students may receive the waiver for a maximum of one year.

Washington's baccalaureate institutions may also waive all or a portion of tuition and fees for a limited number of international students. In any year, waivers are limited to 100 students at each of the research universities and 20 students at each of the comprehensive universities and The Evergreen State College. The institutions must give a priority to international students participating in academic exchange programs sponsored by recognized international education organizations. The number of waivers granted by any institution must not exceed the number of that institution's students who enrolled in approved study-abroad programs during the same time period.

**Summary:** The program that permits baccalaureate institutions to waive the non-resident tuition differential for students participating in exchange agreements with colleges and universities in other states is revised. The baccalaureate institutions may establish home-tuition agreements with institutions of higher education or institutional consortiums outside the state. Through the agreements, students from Washington's baccalaureate institutions will exchange places with students from participating institutions for a maximum of one year. Participating students will pay the resident tuition and fee rates at either their home institution or at the out-of-state institution they are attending. The tuition and fee rate will be determined by the agreement. Students participating in home tuition programs must reside in the state during their year in the program. In addition, they may not use their year to establish residency and they are not eligible for state funded financial aid.

Home tuition agreements cannot result in either uncompensated costs to instructional programs or loss of tuition and fee revenue to participating institutions of higher education. The program will no longer be a tuition waver program. Nonresident students participating in this program will be defined as resident students for the purpose of determining tuition and fee rates.

**Votes on Final Passage:**

House	97	0	
Senate	36	0	(Senate amended)
House	92	0	(House concurred)

**Effective:** July 27, 1997

**HB 1651**  
**FULL VETO**

Authorizing the sale of malt liquor in untapped kegs by class H licensees.

By Representatives Scott, Costa, Conway and Hatfield.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Under the state's system of licensing the sale of alcohol, a Class H licensee may sell alcohol, including beer and wine, by the drink to the public for consumption on the premises of the licensee. Class H licensees are typically restaurants with cocktail lounges where food is served along with alcohol. A Class H licensee may not hold any other retail license and may not sell alcohol in a closed container to be consumed away from the licensee's premise.

Taverns may sell beer to the public to be consumed on the premises (Class B license), or may sell beer to be taken off the premises in a closed container to be consumed elsewhere (Class E license). Under a Class B license, access to the premises is restricted to persons 21 years of age or older.

Restaurants, such as pizza parlors, may sell beer to the public to be consumed on the premises (Class A license) and may also sell beer to be taken off the premises for consumption (Class E).

Only Class A and Class B licensees (on-premises consumption) that also hold a Class E license (off-premises consumption) may sell malt liquor in kegs or other containers that hold at least four gallons. Class H licensees may not hold Class E licenses (off-premises consumption) and may not sell beer in kegs.

**Summary:** Liquor licensees who convert their Class AE or BE combination licenses, allowing the sale of beer for consumption on or off the premises including kegs, to Class H licenses, may continue to sell beer in untapped kegs if authorized by the Liquor Control Board. This provision applies to licensees who converted after January 1, 1993.

**Votes on Final Passage:**

House	74	20
Senate	46	1

**VETO MESSAGE ON HB 1651**

April 17, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to House Bill No. 1651 entitled:

"AN ACT Relating to the sale of malt liquor in kegs;"

This bill would allow certain establishments that obtained Class H liquor licenses (restaurants with lounges that serve alcoholic drinks for consumption on the premises) after January 1993, to also sell beer in kegs for off-site consumption. The

## SHB 1657

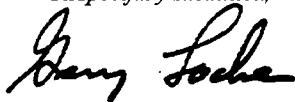
state's liquor licensing structure has always carefully differentiated between on-site and off-site consumption of wine/beer and hard liquor. There is no public policy rationale for eliminating or blurring those distinctions at this time.

This bill provides a privilege and economic advantage for certain Class H license holders, and not for others. In addition to hard liquor, Class H license holders who happen to have converted from Class A-E or Class B-E combination licenses after January 1993 would be able to sell kegs of beer for off-site consumption, and those who converted prior to that date would not. Thus, this bill would create an arbitrary inequity between holders of the same class of liquor license.

This bill also contains vague language. The phrase "in lieu of", as used in HB 1651, could have several meanings and therefore have unintended consequences, upsetting the liquor license system and weakening its protections.

For these reasons, I have vetoed House Bill No. 1651 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SHB 1657

C 434 L 97

Allowing the pass-through of disposal fees for certain solid waste collection companies.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and Linville).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** The Utility Transportation Commission (UTC) regulates the rates of all solid waste collection companies operating in the unincorporated area of a county, and some collection companies operating in cities and towns. Solid waste collection companies regulated by the UTC have exclusive authority to operate in areas specified by the UTC.

The UTC may not alter or adjust certain costs incurred by solid waste collection companies. These "pass-through" costs include landfill disposal costs, disposal taxes, and certain costs relating to implementing a local solid waste management plan.

The UTC may not regulate the rates charged at a landfill or other waste facility that offers services other than waste collection. The UTC has affiliated interest authority to set allowable collection rates based, in part, on profits made by another solid waste facility when specific criteria are met. These affiliated interest criteria are met when (1) a company that owns a solid waste facility receives solid waste from a collection company that it also owns; (2) the landfill disposal or other waste service is not overseen by a public entity; and (3) the solid waste collection company is regulated by the UTC.

**Summary:** The UTC is directed to pass-through disposal charges for companies that have an affiliated interest if the total cost of disposal is equal to or lower than the cost of other currently available disposal options.

**Votes on Final Passage:**

House 96 0

Senate 34 15

**Effective:** July 27, 1997

## SHB 1658

C 15 L 97

Authorizing the utilities and transportation commission to exempt electrical and natural gas companies from securities regulation.

By House Committee on Energy & Utilities (originally sponsored by Representatives Honeyford, Poulsen, Cooper, Crouse and Mastin).

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** A "public service company" is a natural gas, electricity, telecommunications, or water company whose rates and services are regulated by the Washington Utilities and Transportation Commission (WUTC).

The state has the authority to regulate security issuances by public service companies, and public service companies may issue securities only in accordance with applicable laws and regulations prescribed by the WUTC. The Federal Energy Regulatory Commission will regulate security issuances by a public utility only if those issues are not regulated by the public utility commission of the state in which the utility is organized and operating.

Prior to 1987, the law expressly required a public service company to apply to the WUTC for authorization prior to issuing securities other than short-term notes, and required WUTC approval of the final terms of the issuance before giving the authorization. If the company conducted business in another state as well as in Washington, the WUTC could approve issuances jointly with the appropriate agency or agencies of the other state.

In 1987, the Legislature authorized the WUTC to permit a public service company to issue securities based on reasonable estimates of the final terms, and allowed the company to complete the transaction if the final terms were within a range of conditions established by the WUTC.

In 1994, at the WUTC's request, the Legislature repealed the explicit requirement that a public service company apply to the WUTC for approval prior to issuing securities, repealed the language authorizing the WUTC to jointly approve issuances with other states, and repealed a variety of related provisions. But, the Legislature required a public service company to file a notice with the WUTC prior to issuing securities. The notice must: (1) describe

the purpose of the issuance; (2) describe the issuance itself, including the terms of financing; and (3) state why the transaction is in the public interest. A company fulfilling these prerequisites may require the WUTC to enter a written order stating the company has provided the necessary information and statements.

In 1995, the WUTC adopted a rule requiring public service companies, within 30 days of issuing securities, to file with the WUTC a letter setting forth the final terms and conditions of the issuance.

**Summary:** The Washington Utilities and Transportation Committee is authorized to exempt from statutory requirements regarding WUTC oversight or regulation of security issuances (1) any security or class of securities for which a filing to the WUTC is required by law; or (2) any electrical or natural gas company, or class of electrical or natural gas company.

Before granting the exemption, the WUTC must find that the public interest does not require compliance with the statutory requirements.

The WUTC may create the exemption by order or rule, and may impose terms and conditions on the exemption.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** July 27, 1997

**ESHB 1678**

C 106 L 97

**Regulating mortgage brokers.**

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Smith, Wolfe, Sullivan and Zellinsky).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** Generally, a mortgage broker acts as an intermediary between a lender and a borrower. Mortgage brokers often work with many lenders to find the loan which is most suitable to a borrower.

Primarily in response to consumer complaints, the Legislature adopted a temporary Mortgage Broker Licensing Program during the 1993 session. Effective December 1, 1993, all mortgage brokers operating in Washington were required to possess a license issued by the Department of Financial Institutions (DFI). A five-member Mortgage Brokerage Commission was established to advise the DFI on issues concerning the industry, and to prepare a report containing recommendations for legislation to establish a permanent mortgage brokers licensing program. The report of this commission was submitted to the Legislature in December 1993. In 1994, the Legisla-

ture made the temporary licensing program permanent within the Department of Financial Institutions.

Certain entities and persons are exempt from the mortgage brokers licensing requirements, including the following: commercial banks; bank holding companies; savings banks; trust companies; savings and loan associations; credit unions; consumer loan companies; insurance companies; mortgage brokers approved and subject to auditing by the Federal National Mortgage Association, the Government National Mortgage Association; the Federal Home Loan Mortgage Corporation; and real estate brokers providing information in connection with a computer loan origination (CLO) system. Mortgage brokers must have an office in Washington State.

Mortgage brokers must maintain a surety bond, covering anyone injured by a violation of law or choose a statutorily provided alternative.

**Summary:** Changes are made to the regulation of mortgage brokers. Disclosure requirements for mortgage brokers are modified. First, the timing of the requirement that the broker disclose rates, fees, and other costs, including the annual percentage rate, is moved from the time of application to within three days of taking the application. Second, disclosure requirements regarding the relationship between the mortgage broker and the lender making the residential loan are removed. Third, brokers must disclose whether, and under what conditions, lock-in fees are refundable to the borrower.

The exemption from the mortgage broker licensing requirements for mortgage brokers approved by the Government National Mortgage Association is removed.

The requirement that licensed mortgage brokers include the term "licensed mortgage broker" in any advertising directed at the general public is removed. The requirement that a licensed mortgage broker have an office in Washington is deleted. For mortgage brokers who do not have offices in Washington, court actions are to take place in Thurston County. Mortgage brokers must keep their books available at their usual place of business for 25 months instead of four years from the closing of a loan. If a mortgage broker's usual place of business is outside of Washington, the mortgage broker must keep the books in Washington, or pay expenses for the Department of Financial Institutions (DFI) to travel to examine the books. A branch manager does not have to apply for a license if a designated broker supervising the branch has a license.

The surety bond provisions are changed to give borrowers priority to make claims against the bond, and then to allow the state and other persons to collect on the bond.

The DFI may not charge investigative fees to a mortgage broker for the processing of complaints when the investigation determines that no violation of the licensing law occurred, or if the mortgage broker satisfies the consumer and the director with a remedy and the director does not issue an order. If a mortgage broker does not

## E2SHB 1687

comply with an order to provide information related to an examination or investigation, the DFI may subpoena the information.

The Mortgage Brokerage Commission may establish a code of conduct for its members. Any commissioner may bring a motion before the commission to remove a commissioner for failing to follow the code of conduct.

### Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 27, 1997

## E2SHB 1687

### PARTIAL VETO

C 296 L 97

Reducing the impact of wage garnishments on employers.

By House Committee on Appropriations (originally sponsored by Representatives Sheahan, Delvin, Sheldon, McMorris, L. Thomas, Mielke, Grant, Morris, Benson, D. Schmidt, Alexander, D. Sommers, Johnson, Thompson, Talcott and Boldt).

House Committee on Law & Justice  
House Committee on Appropriations  
Senate Committee on Law & Justice

**Background:** There are several ways to satisfy a judgment or enforce a child support order. A private party may attempt to satisfy a judgment against an obligor by obtaining a civil order to garnish the obligor's earnings or property. The garnishee is the person who has the obligor's property, and in many cases, is the obligor's employer. To enforce spousal maintenance or child support obligations, a court or the Office of Support Enforcement (OSE) may issue an income withholding order or notice of payroll deduction to the obligor's employer. A garnishee or employer has certain duties upon receiving a notice of garnishment, income withholding order, or notice of payroll deduction.

**Civil Garnishment Orders.** Under the civil garnishment statutes, the garnishee receiving a garnishment order is required to answer the order within 20 days. If the garnishee fails to answer the order, the garnishee could be liable for the full amount of the judgment, along with interests and costs, whether or not the garnishee owes anything to the obligor.

Service of the garnishment order upon the garnishee is invalid unless it is served with, among other things, a cash or a check made payable to the garnishee in the amount of \$10. This is called an "answer fee."

Generally, the amount of earnings for each week that is exempt from garnishment is the greater of: 30 times the federal minimum hourly wage in effect at the time the earnings are payable; or 75 percent of the obligor's disposable earnings.

In child support cases, 50 percent of the obligor's disposable earnings are exempt from withholding.

A federal employee's wages are generally subject to garnishment in the same manner and extent as if the federal agency were a private person.

**Spousal Maintenance and Child Support Orders.** Notices of payroll deductions and wage withholding orders for child support obligations have priority over other civil garnishment orders. The court may issue a wage withholding order to an employer to enforce a child support or spousal maintenance order. The OSE may issue a notice of payroll deduction to an employer, or to the Employment Security Department if the parent ordered to pay child support is receiving unemployment compensation.

The employer or the Employment Security Department has 20 days to answer the order or notice and may deduct a processing fee from the employee's earnings or unemployment compensation. The fee must not exceed \$10 for the first disbursement made by the employer and \$1 for each subsequent disbursement.

If the employer fails to respond to a wage assignment order, fails or refuses to comply with the order, or is unwilling to comply with other requirements, the employer may be liable for 100 percent of the obligor's spousal maintenance or child support debt, or the amount of support that should have been withheld from the employee's earnings, whichever is less.

The order or notice remains in effect until (1) it has been released by the OSE; (2) the court enters an order terminating the notice; or (3) one year has expired since the employer employed the obligor or was in possession of the obligor's earnings, or the Employment Security Department was in possession of or owed any unemployment compensation benefits to the obligor. If the obligor returns to the employer during the one-year period, the employer is required to immediately begin withholding the obligor's wages according to the terms of the order.

**Summary:** Civil Garnishment Orders. Before the garnishee may be held liable for the full amount of the judgment when the garnishee fails to timely respond to the order, a notice must be given to the garnishee at least 10 days before entry of the judgment.

The requirement for an answer fee is eliminated, but the garnishee may deduct a processing fee from the obligor's earnings. The processing fee must not exceed \$20 for the first disbursement. If the garnishment is a continuing lien, the garnishee may also deduct \$10 at the time of the final disbursement.

If any nonexempt wages remain after withholding to satisfy a child support obligation, the garnishee must garnish any remaining nonexempt wages to satisfy a civil garnishment order.

A standard form and general procedures are created for the service of garnishment orders on the federal government.

**Spousal Maintenance and Child Support Orders.** An employer who fails to timely respond to a wage withholding order or notice of payroll deduction for spousal maintenance or child support will be liable only for the amount that should have been withheld. The processing fee is raised from \$10 to \$15 for the first disbursement.

The employer must notify the Office of Support Enforcement (OSE) when the employee leaves employment. The employer must retain the order until the employer no longer possesses any earnings owed to the obligor. A notice of payroll deduction remains in effect with the Employment Security Department until released by the OSE or the court enters an order terminating the notice. The employer or the Employment Security Department is no longer required to retain the order or notice of payroll deduction for a one year period.

**Miscellaneous.** A task force is created of representatives from various state agencies, collection agencies, and representatives from small businesses to establish simplified garnishment procedures and a standard form to reduce paperwork and confusion. The task force must also study the ability of the OSE to pay for the employers' processing fees.

**Votes on Final Passage:**

House	61	33	
Senate	42	1	(Senate amended)
House	63	31	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed sections of the bill that eliminated the requirement for employers to retain child support wage withholding orders for up to one year after the employee leaves employment. The Governor vetoed all but one of the sections that increased the employers' processing fee, and one of the three sections that made employers liable for only the amount of money that should have been withheld. Lastly, the Governor vetoed sections of the bill that created the wage garnishment joint task force.

**VETO MESSAGE ON HB 1687-S2**

May 9, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 11, 12, 14, 17 and 18, Engrossed Second Substitute House Bill No. 1687 entitled:

"AN ACT Relating to wage garnishment;"

This legislation makes several positive changes to the law governing garnishment of wages. Among other improvements, it increases the handling fee that employers may deduct from wages, and provides employers with a second notice before they are subject to penalties for errors they may have made in compliance with garnishment orders.

I agree with recognizing the important role employers play as partners in the collection of support owed to custodial parents. Where it can be made easier for employers to collect money owed to custodial parents, without harming the interests of fami-

lies, we should do so. It is for this reason that I am in support of much of this bill.

Sections 11 and 12 would eliminate the requirement that an employer keep a record of the child support order for one year after the obligor leaves employment. They would allow the employer to dispose of the garnishment record as soon as the obligee leaves employment and final wages are paid. Where there is seasonal employment or other interruptions in employment, the obligor would be required to continually repeat the garnishment procedure, and that could needlessly deprive the custodial parent of support or even to bring about the need for public assistance. I have vetoed these sections, as well as Section 14 which describes the order to withhold, because of the risk to the well-being of families that this change would create.

Section 11 also contains clause that appears to have been designed to limit the liability of employers who fails to withhold earnings as required by a wage assignment order. As drafted that clause may be ineffective, and could have the unintended consequence of causing overpayment by employers.

Section 17 would create a work group to establish a standardized form for garnishment orders. There is already such a requirement imposed upon the state in federal law and it would be pointless to have a group produce a document that the state would be unable to use.

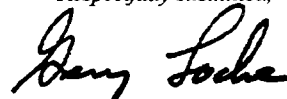
Section 18 would create a joint task force to study the reorganization of employment reporting requirements so that the office of support enforcement would receive employment information from the employment security department, rather than from private employers. With the new federal welfare reform, it is essential that the state receive the appropriate employment data at a particular time. Data from the employment security data would not satisfy the need. There is no need for this study.

I do agree that a number of the problems highlighted by this bill would benefit from the task force approach that Section 18 calls for. I will encourage the secretary of the Department of Social and Health Services to call together a group from within and outside of that agency to examine possible improvements in the partnership between employers, DSHS and relevant state agencies.

For these reasons I have vetoed sections 11, 12, 14, 17 and 18 of Engrossed Second Substitute House Bill 1687.

With the exception of sections 11, 12, 14, 17 and 18, Engrossed Second Substitute House Bill 1687 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SHB 1693**

C 379 L 97

Allowing credit for reinsured ceded risks.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas and Wolfe).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** The Office of the Insurance Commissioner oversees the corporate and financial activities of insurance companies. All companies authorized to conduct insur-

ance operations in Washington must meet statutory requirements for capital, surplus capital, reserves, investments, and other financial and operational considerations. Life, disability, and property and casualty insurers must also meet risk-based capital requirements.

Reinsurance is an insurance product purchased by an insurance company to pass some of the risk assumed by the insurance company onto the reinsurer. Because an insurance company's exposure to financial loss is reduced by the purchase of reinsurance, statutory provisions allow the insurance company to take a credit for the reinsurance as if it were an asset. This credit improves the reported financial condition of the insurance company obtaining the reinsurance. However, the statutory provisions permit such a credit for reinsurance only when specified standards are met, standards which are designed to ensure the financial soundness of the reinsurance.

When the reinsurer is not licensed to transact business in the state of Washington, the Washington insurer can still claim the reinsurance on its financial statement as long as certain statutory provisions are met: (1) the reinsurance is through Lloyds of London (which maintains a trust fund in the United States to cover liabilities attributable to business in the United States plus \$100 million); (2) the credit equals the amount of funds or the amount of a letter of credit that is security for the insurer purchasing the reinsurance; or (3) the reinsurer maintains a trust fund in the United States to cover liabilities attributable to business in the United States plus \$20 million.

A domestic insurance company is one organized under Washington law; an alien insurance company is one organized under the laws of a nation other than the United States; and a foreign insurance company is one organized under the laws of another state.

**Summary:** Reinsurance contracts entered into by Washington insurance companies must provide that in the event the insurance company becomes insolvent, the portion of the risk assumed by the reinsurer is payable to the conservator, liquidator, or successor. Payment under a reinsurance contract must be made within a reasonable time. An insurance company may count reinsurance as a financial credit only if the reinsurance involves an actual transfer of risk.

Alien reinsurers providing reinsurance to Washington insurance companies must register with the insurance commissioner and agree to abide by certain requirements regarding the trust account and meet certain reporting requirements. The insurance commissioner may revoke an alien reinsurer's registration for specified reasons, including an unsafe financial condition.

Foreign insurance companies are allowed credit for reinsurance, provided their home state is accredited by the National Association of Insurance Commissioners, or credit for the reinsurance would be allowed under Washington law if the insurance company were domiciled in Washington.

**Votes on Final Passage:**

House	97	0	
Senate	46	0	(Senate amended)
House	92	0	(House concurred)

**Effective:** July 27, 1997

**HB 1708**

C 311 L 97

Eliminating farm implement commissioned salespeople from the minimum rate of compensation for employment in excess of a forty-hour work week requirement.

By Representative McMorris.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Federal and state laws require an employer to pay overtime compensation to a covered employee who works more than forty hours per week. The overtime rate is one and one half times an employee's hourly rate.

Under federal law, a salesperson is exempt from overtime requirements if he or she works for a non-manufacturing business primarily selling automobiles, trucks, farm implements, trailers, boats, or aircraft to ultimate purchasers.

Under Washington law, an employer of a commissioned salesperson primarily selling automobiles, trucks, recreational vessels, recreational vessel trailers, recreational vehicle trailers, recreational campers, or manufactured housing to an ultimate purchaser does not violate state overtime rate requirements if the commissioned salesperson is paid the greater of: (1) compensation at an hourly rate, not less than the minimum wage, for hours up to forty hours per week, and overtime at one and one-half times the hourly rate, or (2) commissions, salaries, or salaries and commissions.

**Summary:** An employer of a commissioned salesperson selling farm implements to an ultimate purchaser does not violate state overtime rate requirements if the commissioned salesperson is paid the greater of: (1) compensation at an hourly rate, not less than the minimum wage, for hours up to forty hours per week, plus overtime at one and one half times the hourly rate, or (2) commissions, salaries, or salaries and commissions.

**Votes on Final Passage:**

House	97	0	
Senate	47	1	(Senate amended)
House			(House refused to concur)
Senate	41	0	(Senate receded)

**Effective:** July 27, 1997

## SHB 1726

C 225 L 97

Allowing outdoor burning of storm and flood-related debris.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Robertson, Linville, L. Thomas, Regala, Benson, Kastama, Smith, Hatfield, Koster, Sullivan, McDonald, Chandler, Zellinsky, DeBolt, B. Thomas, Cairnes, Johnson, Cooke, Clements, Kessler and Mulliken).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** In general, state law regulates where and how outdoor burning is permitted and what may be burned. Outdoor burning refers to both "backyard" burning and to land-clearing fires. Outdoor burning does not include silvicultural burning (slash burns) or agricultural burning. Pollutants emitted by outdoor burns include inhalable particulate matter less than 10 microns in diameter (PM-10) and carbon monoxide. Outdoor burning contributes an estimated 6 percent to statewide air emissions.

Outdoor burning is prohibited in areas where federal PM-10 or carbon monoxide standards are violated. These areas include the greater Spokane, Yakima, and Olympia areas and the Tacoma tideflats, the Duwamish valley, and the Kent valley. State law prohibits outdoor burning by December 31, 2000, in urban growth areas designated under the Growth Management Act, or in cities greater than 10,000 population.

The federal Clean Air Act requires a state implementation plan for areas that do not meet, or have not met, federal air quality standards. These plans must identify enforceable actions that will reduce air pollution sufficiently to meet federal air quality standards. Many of these plans include outdoor burning bans as one action to reduce air pollution. The U.S. Environmental Protection Agency has final approval of state implementation plans.

**Summary:** Outdoor burning conducted solely for managing storm and flood-related debris may be allowed in areas where outdoor burning is otherwise prohibited. The permitting authority may decide if burning will be permitted in an area in which outdoor burning is prohibited. A permit is required and a fee may be charged to recover the costs of administering the permit. All restrictions on what may be burned remain unchanged except that outdoor burning of debris resulting from land-clearing activities is not allowed.

**Votes on Final Passage:**

House	97	0
Senate	38	11

**Effective:** July 27, 1997

## SHB 1729

PARTIAL VETO

C 354 L 97

Changing irrigation district administration provisions.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Schoesler, Grant and Linville).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Property owners, including corporations, are allowed to vote in irrigation district elections. The statutes do not specify that other legal entities that own property, such as partnerships, are authorized to vote in irrigation district elections.

Irrigation districts do not regulate what is discharged into the water moving through the district. There is no statutory release from liability for irrigation districts for discharges into the water by other persons.

Water-sewer districts are allowed to require each bid to be accompanied by a deposit in the amount of 5 percent of the bid, and to require a successful bidder to enter into a contract and furnish the required bond within 10 days after being awarded the contract. Irrigation districts do not have this authority.

Property owners may submit a petition to an irrigation district requesting that lands be added within the boundaries of the district. The lands must be adjacent to the boundaries of the irrigation district, contiguous, and constitute one tract of land when taken together.

**Summary:** A general partnership, limited partnership, limited liability company, or any other legal entity that owns land and is formed pursuant to state law or qualified to do business in the state may vote in an irrigation district election.

No irrigation district, its directors, officers, employees, or agents operating and maintaining irrigation works for any purpose, is liable for any damages to persons or property arising from the disposal of sewage and waste discharged by others into the irrigation works pursuant to federal or state law permitting the discharge.

An irrigation district may require bidders to accompany their bids with a deposit in an amount equal to 5 percent of the amount of the bid, and the bid cannot be considered without the deposit. If the lowest responsible bidder cannot enter into the contract and furnish the satisfactory bonds as required by law within 20 days of the award, the deposit is forfeited, and the district may award the contract to the second lowest bidder. Once the contract is awarded, the deposits of the unsuccessful bidders must be returned.

A petition submitted by property owners to an irrigation district requesting that lands be added within the boundaries of the irrigation district is no longer limited to lands that are adjacent to the boundary of the irrigation

## ESHB 1730

district, are contiguous, and which constitute one tract of land when taken together.

### Votes on Final Passage:

House	97	0	
Senate	47	1	(Senate amended)
House			(House refused to concur)
Senate	39	0	(Senate receded)

Effective: July 27, 1997

**Partial Veto Summary:** The Governor vetoed section 4, which allowed irrigation districts to add lands to the district's boundaries that are not contiguous with the district.

### VETO MESSAGE ON HB 1729-S

May 14, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 4, Substitute House Bill No. 1729 entitled:

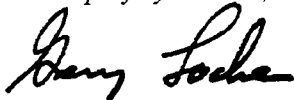
"AN ACT Relating to the administration of irrigation districts;"

Substitute House Bill No. 1729 makes several technical amendments and up-dates to the laws governing irrigation districts. Section 4 of the bill, however would be a substantial change in state water policy. That section would allow irrigation districts to add lands that are not contiguous with the district's boundaries. Such a change could allow irrigation districts to pipe water to isolated parcels of land substantial distances from their primary locations, and could result in "water spreading" and unanticipated expansion of the districts' water rights. Changes such as this should not be dealt with in a piecemeal fashion, but in context with the numerous other factors that must be considered in allocating the state's limited water supply.

For these reasons, I have vetoed section 4 of Substitute House Bill No. 1729.

With the exception of section 4, I am approving Substitute House Bill No. 1729.

Respectfully submitted,



Gary Locke  
Governor

## ESHB 1730

### FULL VETO

Changing provisions relating to sufficient cause for nonuse of water rights.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Schoesler and Grant).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Relinquishment of a Water Right for Non-use. If a person abandons or voluntarily fails to use beneficially all or any part of a water right for five successive years without sufficient cause, the right or the portion

unused reverts to the state. A number of exemptions from this relinquishment requirement are listed by statute. A procedure has been established under which the Department of Ecology may determine and the Pollution Control Hearings Board may confirm that a water right has reverted to the state for nonuse.

**Permit Deadline.** When a person applies for a water right and the department issues a water use permit, the permit contains deadlines by which construction required for the water use must be completed and beneficial use of the water must take place. These deadlines may be extended by the department under certain circumstances. If the water use is perfected under the terms of the permit, the department issues the permit holder a water right certificate.

**Summary:** A water right is not subject to relinquishment for nonuse if the right is leased to another person under a transfer or change of the right or if federal or state agency leases of or options to purchase lands or water rights preclude or reduce the use of the right by the water right owner.

If federal or state laws prevent or restrict water use otherwise authorized under a water use permit, the Department of Ecology must extend the deadlines set in the permit for commencing work, completing work, and applying water to beneficial use. The extension must be for a period that is not less than the period of nonuse or restricted use caused by the federal or state laws.

### Votes on Final Passage:

House	63	35	
Senate	46	0	(Senate amended)
House			(House refused to concur)
Senate	30	16	(Senate amended)
House	98	0	(House concurred)

### VETO MESSAGE ON HB 1730-S

May 14, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

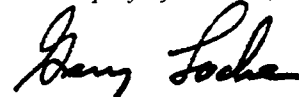
I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1730 entitled:

"AN ACT Relating to sufficient cause for nonuse of water rights;"

Engrossed Substitute House Bill No. 1730 could result in water right permits that would remain in suspension indefinitely if other laws delayed or prohibited completion of development and use of the water. Having rights to substantial amounts of water indefinitely in suspension would make planning and water allocation for present needs unworkable. This bill could also provide an opportunity for abuse of the relinquishment statutes.

For these reasons, I have vetoed Engrossed Substitute House Bill No. 1730 in its entirety.

Respectfully submitted,



Gary Locke  
Governor



**HB 1743**  
**PARTIAL VETO**  
C 194 L 97

Allowing the department of community, trade, and economic development to adopt rules to carry out the long-term care ombudsman program.

By Representatives Dyer, Cody, Kenney, Cooke and Blalock.

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** All states are mandated by federal law to operate a long-term care ombudsman program. The program is required to offer two primary services: (1) direct, individual advocacy services, which should be accessible, available, and meet the needs of residents of long-term care facilities; and (2) systematic advocacy services. In compliance with this federal mandate, the Department of Community, Trade and Economic Development is designated in state law to be responsible for contracting for, and monitoring the performance of, the state long-term care ombudsman program. The department is not specifically directed by law to develop rules for guiding the program.

**Summary:** The Department of Community, Trade and Economic Development is required to adopt rules for the state long-term care ombudsman program.

**Votes on Final Passage:**

House	94	0
Senate	47	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the emergency clause.

**VETO MESSAGE ON HB 1743**

*April 24, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington*

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to section 2, House Bill No. 1743 entitled:*

*"AN ACT Relating to the long-term care ombudsman program;"*

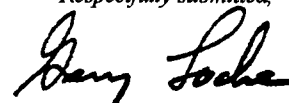
*House Bill No. 1743 requires the Department of Community, Trade and Economic Development to adopt rules for the state long-term care ombudsman program. Section 2 of the bill is an emergency clause, implementing the bill immediately.*

*Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.*

*For this reason, I have vetoed section 2 of House Bill No. 1743.*

*With the exception of section 2, I am approving House Bill No. 1743.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**SHB 1757**  
**FULL VETO**

Revising security guard licensing and requirements.

By House Committee on Commerce & Labor (originally sponsored by Representatives Delvin, Sterk, Zellinsky and Hicel).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Department of Licensing regulates private security guards and private security guard businesses. A private security guard is an individual licensed under the security guard licensing law and employed as a security officer or guard, merchant patrol officer or guard, armed escort or bodyguard, armored vehicle guard, burglar alarm response runner, or crowd control officer.

The security guard licensing law exempts persons who perform security guard duties for a private employer who is not in the private security guard business and also exempts peace officers performing their official duties or engaged in off-duty employment as security guards.

**Summary:** Guest services or crowd management employees who do not perform security officer duties are exempt from the security guard licensing requirements.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**VETO MESSAGE ON HB 1757-S**

*May 14, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington*

*Ladies and Gentlemen:*

*I am returning herewith, without my approval, Substitute House Bill No. 1757 entitled:*

*"AN ACT Relating to security guard licenses;"*

*This legislation would provide an exception to the training and other regulations required for security officers, for people employed in crowd management - even though they may perform the same duties as security officers.*

*I have strong concerns that the use of trained, regulated security guards would be undermined by this bill and public safety could be compromised. First, the bill provides no distinction between what constitutes the duties of crowd management personnel and crowd control officers. Secondly, and more importantly, it allows such crowd management personnel to perform the duties of security officers as long as it is not on a "routine" basis. Such personnel are responsible for exerting physical force, restraining or even handcuffing other persons and as such, should*

not be performing those duties unless trained and regulated. The need for professional control of crowds at large scale events such as rock concerts is well-documented, and this bill would weaken the protections the public has a right to expect.

I will direct the Department of Licensing to review existing regulations and practices to make clear that those individuals who do not perform the duties of security guards are not subject to the security guard regulations. It is not the intent, nor is it current practice, to require ticket takers or ushers who do not act as security guards to be licensed or regulated.

For these reasons, I have vetoed Substitute House Bill No. 1757 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**HB 1761**  
C 195 L 97

Revising provisions for mutual aid and interlocal agreements.

By Representatives D. Schmidt, Scott, Talcott and Lambert.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Each county and city is required to establish a local organization for emergency management and prepare a local emergency management plan. The Adjutant General may allow two or more counties or cities to establish a single local organization.

The Adjutant General develops a state emergency management program.

The director of each local organization for emergency management may enter into mutual aid arrangements with other public and private agencies in the state for aid and assistance in case of a disaster too great to be dealt with unassisted. These mutual aid arrangements must be consistent with the state emergency management plan and program.

If approved by the Governor, the Adjutant General and directors of local organizations for emergency management may enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of a disaster too great to be dealt with unassisted.

**Summary:** The existing statute providing for interstate and intrastate mutual aid agreements is repealed and a new statute with somewhat similar provisions is enacted. Much of the detail from the existing statute relating to interstate civil defense compacts is not included in the new statute.

A mutual aid agreement or compact may include conditions when the mutual aid is provided, including: (1)

which authorities may request and receive assistance and the conditions when a request may be made; (2) how a request for aid is approved; (3) control over personnel and equipment that is provided; and (4) situations when the jurisdiction providing the aid may withdraw the aid.

A mutual aid agreement or compact must define terms of reimbursement and privileges and immunities enjoyed by both the jurisdiction providing the aid and individuals from the jurisdiction providing the aid.

**Votes on Final Passage:**

House	94	0
Senate	42	0

Effective: July 27, 1997

**SHB 1768**  
C 417 L 97

Regulating pharmacy ancillary personnel.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Zellinsky, Sheldon and L. Thomas).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** The practice of pharmacy includes generally the practice of, and responsibility for, interpreting and filling of prescriptions as well as the dispensing, distributing, and administering of drugs.

Pharmacy assistants are regulated by the Board of Pharmacy and certified to perform services associated with the practice of pharmacy as authorized by the board. There are two levels of pharmacy assistants. Level A pharmacy assistants assist pharmacists in performing manipulative, nondiscretionary functions under the immediate supervision of a pharmacist. A pharmacist may supervise no more than one Level A pharmacy assistant. Level B assistants perform, under general supervision, duties such as typing prescription labels, filing, refiling, bookkeeping, pricing, stocking, delivery, nonprofessional phone inquiries, and documentation of third-party reimbursements.

**Summary:** The title of Level A pharmacy assistant is changed to pharmacy technician. The title of Level B pharmacy assistant is changed to simply pharmacy assistant.

The Board of Pharmacy is authorized to adopt rules governing the utilization of pharmacy ancillary personnel, including pharmacy technicians and pharmacy assistants. Pharmacy ancillary personnel are regulated by the board and registered to perform limited functions authorized by the board. The board is authorized to adopt rules establishing standard ratios of pharmacist supervision for pharmacy ancillary personnel. Pharmacies desiring to use ancillary personnel in a greater number than the standard

ratio must obtain board approval of a pharmacy services plan.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** July 27, 1997

## SHB 1770

C 418 L 97

Setting the fee for the transfer of Dungeness crab-coastal fishery licenses.

By House Committee on Natural Resources (originally sponsored by Representatives Alexander, Linville, Hatfield, Anderson, Doumit, Buck, Chandler and Kessler).

House Committee on Natural Resources  
House Committee on Finance  
Senate Committee on Natural Resources & Parks

**Background:** The Legislature created limited entry coastal crab fishing licenses that became effective on January 1, 1995. Two types of licenses were created: a coastal crab license, and coastal crab class B license. Both licenses are subject to a fee and must be renewed annually. The class B license is a temporary license that expires on December 31, 1999. This license is awarded to crab fishers that had some historical participation in the coast crab fishery, but not enough to qualify for the ongoing coastal crab license.

The base fee for renewing the coastal crab fishing license is \$295 if the license holder is a state resident. The coastal crab license and other specified commercial fishing licenses are transferable and subject to a transfer fee that is set by statute. The transfer fee for the coastal crab license is \$1,032.50 if transferred to a state resident, and \$1,275.50 if the license is transferred to a non-resident. In addition, a transfer of this license is subject to a 20 percent surcharge.

The coastal crab account was created in 1994. The account originally received revenue from three sources: the 20 percent surcharge on the transfer of coastal crab licenses, a temporary surcharge of \$250 on the license renewal of either of the two types of coastal crab licenses, and a \$250 fee for a delivery license. The temporary \$250 license surcharge was in effect only for licenses renewed in 1995 and 1996. The 1994 legislation specified that funds from the coastal crab account must be used to buy back class B coastal crab licenses during the 1995 and 1996 fishing seasons and to pay for the department's crab management activities. Management activities are defined as studies, negotiations, enhancement projects, and other activities determined by the department as necessary to manage the state's crab resources.

Most of the crabs caught in coastal waters are usually found in off-shore waters outside of the three-mile line of

state jurisdiction. State law provides that a person with a valid Oregon or California crab license can deliver crab caught in off-shore waters from February 15 to September 15. State law also allows the director of the Department of Fish and Wildlife to make case-by-case decisions allowing crab fishers from Oregon and California to deliver crab into the state from December 1 to February 15 if a number of specified conditions exist.

**Summary:** The transfer fee for the coastal crab license is reduced to \$500. A license renewal surcharge of \$120 is assessed on both types of coastal crab licenses. Crab license transfer fees and surcharges are deposited into the coastal crab account. The 20 percent surcharge on license transfer is eliminated. Persons with a Oregon or California crab may not deliver crab into the state from February 15 to September 15. Dated language relating to the 1995 and 1996 class B license buyout is deleted. Any commercial fishing license transferred to a non-resident is subject to an additional transfer fee equal to the difference between the resident and non-resident license renewal fees.

**Votes on Final Passage:**

House	98	0	
Senate	42	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 27, 1997

## ESHB 1771

C 312 L 97

Providing for certification of professional guardians.

By House Committee on Law & Justice (originally sponsored by Representatives Mitchell, Tokuda, Constantine, Sheahan, Keiser, Mason, Blalock, Costa, Conway, Butler, Murray and Cody; by request of Secretary of State).

House Committee on Law & Justice  
Senate Committee on Human Services & Corrections

**Background:** A court may appoint a guardian for an incapacitated person to help the person manage his or her personal or financial affairs. A person is incapacitated if the individual is at a significant risk of personal harm because of an inability to provide for nutrition, health, housing, or physical safety, or at risk of financial harm because of an inability to manage his or her property or financial affairs. The court may appoint a guardian over "the person" of an incapacitated person if the incapacity results from an inability to manage health and safety matters, or over the estate of an incapacitated person if the incapacity results from an inability to manage financial affairs.

Generally, any resident of the state who is at least 18 years of age, of sound mind, and has not committed certain crimes may be appointed as a guardian. If authorized, a trust company or national bank may serve as guardian of

## SHB 1776

the estate of an incapacitated person, and a nonprofit corporation may serve as guardian of the person or estate of an incapacitated person.

A testamentary guardian is a person appointed as the guardian of a minor child by a parent in the parent's will.

**Summary:** The Office of the Administrator for the Courts (OAC) is required to study and make recommendations on standards and criteria for certification of professional guardians and other issues related to the provision of guardianship services.

The express authority for a nonprofit corporation to act as guardian of the person or the estate of an incapacitated person is removed. An individual or entity may be appointed as the professional guardian of the person or the estate of an incapacitated person if the individual or entity meets certification requirements established by the OAC. Testamentary guardians and financial institutions serving as the guardian of the estate of an incapacitated person are not subject to the certification requirements.

A professional guardian is a court-appointed guardian who is not a member of the incapacitated person's family, charges a fee for providing guardianship services, and serves as guardian for at least three incapacitated persons.

### Votes on Final Passage:

House	87	7	
Senate	46	0	(Senate amended)
House	96	1	(House concurred)

**Effective:** July 27, 1997 (Section 3)  
January 1, 1999 (Sections 1 & 2)

## SHB 1776

### FULL VETO

Regarding school audits.

By House Committee on Appropriations (originally sponsored by Representatives Huff, H. Sommers, Alexander, Benson, Clements, Wensman, O'Brien and Boldt; by request of Office of Financial Management).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The state auditor conducts fiscal audits of school districts. Portions of the audits address the accuracy of enrollment and other data submitted to the state for payment of state and federal funds. Occasionally the state auditor finds that erroneous data have been submitted, resulting in overpayments of state and federal funds.

The Office of the Superintendent of Public Instruction has clear rules for resolving audits involving recovery of federal money based on federal law and regulations. There is no formal audit resolution process for state moneys. Authority for the Superintendent of Public Instruction to require a school district to submit revised data is not clearly stated. The amount of state money to be recovered due to an audit is often debated and some-

times disputed. There is little assurance that two districts with similar audit findings will be treated in the same way.

**Summary:** The Superintendent of Public Instruction must withhold or recover state payments to school districts based on findings of the state auditor.

The superintendent is authorized to require school districts to submit revised data and is required to revise state payments accordingly.

The superintendent is required to adopt rules setting forth policies and procedures for audit resolutions.

### Votes on Final Passage:

House	97	0
Senate	45	0

### VETO MESSAGE ON HB 1776-S

April 25, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

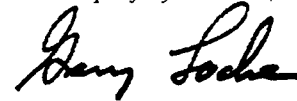
I am returning herewith, without my approval, Substitute House Bill No. 1776 entitled:

"AN ACT Relating to school audits;"

I fully support SHB 1776 which would improve the process for resolving school district audits involving state funding. However, SHB 1776 is identical to SSB 5394, which I signed into law on April 23, 1997.

For this reason, I have vetoed Substitute House Bill No. 1776 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SHB 1780

C 380 L 97

Modifying service of process.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, L. Thomas, Pennington, Delvin, Sherstad, Hickel and Kessler).

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** When a party commences a lawsuit against another party, the initiator of the lawsuit must serve notice of the commencement of the lawsuit on the other party. Service of process is necessary for the court to have jurisdiction over the party being sued.

If the defendant is an individual, as opposed to a corporation or other entity, the plaintiff must either personally serve the defendant or leave a copy of the notice at the defendant's home with a person of suitable age and discretion who resides there.

If the plaintiff cannot with reasonable diligence personally serve the defendant or leave the notice at the

defendant's home with a person of suitable age and discretion who resides there, two alternative methods of service are available. The plaintiff may serve the notice either by:

- (1) leaving a copy of the notice at the person's usual mailing address with a person of suitable age and discretion who resides at that address, or if the usual mailing address is a place of business, leaving a copy of the notice with the secretary, office manager, vice-president, other head of the company, or the secretary or office assistant to any of those persons, and mailing a copy to the person at the mailing address; or
- (2) leaving a copy of the notice at the person's place of employment, with the secretary, office manager, vice-president, president, or other head of the company, or with the secretary or office assistant to the secretary, office manager, vice-president, president, or other head of the company, and mailing a copy to the person at the place of employment.

Service under these two alternative methods is complete 10 days after the notice is mailed.

**Summary:** For the purpose of service of process in civil litigation, leaving a copy of the notice at the person's place of employment is no longer an alternative method of service. "Usual mailing address" expressly excludes a person's place of employment.

**Votes on Final Passage:**

House	97	0	
Senate	49	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1791**  
**FULL VETO**

Exempting activities conducted for an agricultural commodity commission or board from business and occupation tax.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Mastin, Chandler, Linville, Grant, Clements, Mulliken, Koster, Boldt and Schoesler).

House Committee on Agriculture & Ecology  
House Committee on Finance  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** Four of the types of activities on which a business and occupation (B&O) tax is levied are manufacturing, selling at wholesale, selling at retail, and providing services. The base B&O tax rate on manufacturing and selling at wholesale is 0.484 percent. The base B&O tax rate for retailers is 0.471 percent. The B&O tax on business service activities varies from a rate of 0.275 percent for international investment management services to 2 percent for general business services. The tax is on the

gross income or gross proceeds of sales of the service. A surcharge of 4.5 percent times the base B&O tax rate for a number of activities is imposed until June 30, 1997.

**Summary:** The B&O tax laws do not apply to a non-profit organization with respect to amounts received from an agricultural commodity board or commission created under the Agricultural Enabling Act of 1955 or 1961, or directly by statute. To qualify for this B&O tax exemption, the organization must have the same objectives for which the commodity commission or board was formed and must fall in one of the federal income tax exemption categories that include farmers' cooperatives; labor, agricultural, and horticultural organizations; organizations for educational and scientific groups; and boards and business leagues.

**Votes on Final Passage:**

House	94	0	
Senate	46	1	(Senate amended)
House	89	0	(House concurred)

**VETO MESSAGE ON HB 1791-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1791 entitled:

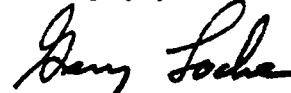
"AN ACT Relating to the taxation of activities conducted for an agricultural commodity commission or board,"

Substitute House Bill No. 1791 would exempt from the Business and Occupation (B&O) tax, business activity conducted for an agricultural commodity commission or board created by statute, if the activity is approved by a referendum conducted by the commission or board.

This bill was drafted narrowly in order to restrict the exemption to income paid to a non-profit organization to advertise the agricultural products of the commodity commission. Although the current bill is narrow, it sets a precedent for future exemptions of a similar nature. Other state agencies including the Department of Social and Health Services and the Department of Community, Trade and Economic Development also contract with non-profit entities to carry out programs that advance state goals and purposes. These departments and non-profit entities could view this exemption as an invitation to seek similar tax treatment.

For these reasons, I have vetoed Substitute House Bill No. 1791 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**ESHB 1792**

C 419 L 97

Expanding the use of environmental technology pre-certification.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Delvin, Hankins, Mastin, Linville, Veloria, Van Luven, Regala and Grant).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** The Department of Ecology participates in a multi-state forum that was formed, in part, to expedite the permitting process for environmental technologies. California has created technology certification programs to evaluate the performance of various environmental technologies. The purpose of the certification programs is to reduce the amount of project specific review that occurs when permitting a particular technology. The California technology certification program does not include certification of technologies related to nuclear and mixed waste remediation. "Mixed waste" contains both nuclear and hazardous waste.

**Summary:** When requested by a project proponent, the Department of Ecology is directed to consider information from another state's technology certification program in making permit decisions relating to air, solid waste, hazardous waste, and water, if a certification program has been approved by the department.

The department is authorized to develop a technology certification program for nuclear and mixed waste remediation technologies if all program development and operational costs are paid by the federal government or by private entities. When requested by a project proponent, the department must consider the information from its technology certification program when making permit decisions. If the department creates its own certification program, the department may also conduct pilot studies to evaluate the certification of technologies other than nuclear and mixed waste technologies. All costs of a pilot evaluation must be paid by the federal government or by private entities. The department is authorized to adopt rules if it develops a technology certification program and is directed to charge a fee to recover the operational costs of certifying a technology.

Local governments that have received delegated regulatory authority from the department may use information from a certification program when making regulatory decisions if a program has been approved or developed by the department. The state and its employees are not liable for any damages relating to the use or non-use of a technology certification program. Actions by the Department of Ecology to approve or disapprove a technology or a technology certification program are not appealable to the Pollution Control Hearings Board.

**Votes on Final Passage:**

House	97	0	
Senate	45	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1799**

C 56 L 97

Regarding letters of credit under the uniform commercial code.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Appelwick, Costa and Sullivan; by request of Washington Uniform Legislation Commission).

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** Article 5 of the Uniform Commercial Code (UCC) deals with letters of credit. A letter of credit is a promise, or authorization, to honor a demand for payment. The letter of credit may be issued to a customer of a bank, for instance, and contain conditions upon which the bank promises to honor a demand for payment. An "applicant" applies to an "issuer" for a letter of credit that may then be used by a "beneficiary" who may or may not be the applicant. Upon completion of the conditions of the letter of credit, the beneficiary "presents" the letter to the issuer for "honoring."

Letters of credit are generally used to facilitate the purchase and sale of goods, often internationally, by assuring the seller of prompt payment without having to rely on the solvency and good faith of the buyer. To be paid, the seller must meet the conditions of the letter, for instance, by presenting to the issuer of the letter the bill of sale for goods sold to the holder of the letter. Many hundreds of billions of dollars worth of letters of credit are issued annually. The original UCC article on letters of credit was drafted in the 1950s. Washington adopted Article 5 of the UCC in 1965. None of Washington's provisions has been amended since.

In recent years many developments have occurred in the use of letters of credit. Particularly, the use of modern electronic methods of communication has changed the way business is done. Much of the use of letters of credit is now done under what have become customary rules of practice. Many of these rules are part of the Uniform Customs and Practice for Documentary Credits (UCP). In part because the original Article 5 predates most of these modern developments, a growing number of disputes over the use of letters of credit end up in court.

The National Conference of Commissioners on Uniform State Laws periodically reviews the UCC and proposes updates. In 1995, the commission proposed the

latest rewrite of Article 5 of the UCC. So far, at least 14 states have adopted this 1995 version.

**Summary:** The 1995 version of Article 5 of the UCC is adopted. The law on letters of credit is substantially rewritten.

It is made explicit that the rights and obligations of parties to a letter of credit are independent of rights and obligations of parties to any underlying transaction, contract, or arrangement that gave rise to the letter of credit.

Electronic methods of creating records related to letters of credit are specifically authorized. Express authorization and procedures are also provided for the use of a wide variety of modern business practices, including the use of deferred payment letters, two-party letters, and perpetual letters.

Consequential and punitive damage awards against issuers of letters of credit are prohibited, but actual and incidental damages and reasonable expenses and attorney's fees may be recovered for wrongly dishonoring a letter of credit.

A one-year statute of limitations is established for actions based on a wrongful dishonoring of a letter of credit. The statute runs from the date the letter expires, or the date the cause of action accrues, whichever is later.

The issuer of a letter of credit may pick the jurisdiction whose law will apply in the case of a lawsuit.

Parties are generally free to depart from the provisions of Article 5 and vary the terms of a letter of credit by agreement. The UCP or other rule of custom or practice may control issues of liability except with respect to certain provisions of Article 5. These provisions of the UCC that must be followed include: rules related to the use of a letter of credit for "personal, family or household purposes;" a requirement that a "perpetual" letter expires in five years; rules covering assignment of proceeds and subrogation rights; and the provision that rights under a letter are independent from rights under an underlying agreement.

A beneficiary of a letter of credit is held to warrant certain things. These warranties are: that there has been no fraud or forgery in the presentment of the letter; and that honoring the letter will not violate an agreement between the beneficiary and the applicant.

Unless otherwise expressly provided in the letter, a letter of credit is irrevocable.

Except for fraud, forgery, or expiration, an issuer cannot assert a discrepancy from standard practice as a reason to dishonor a letter, unless the issuer has given notice of the discrepancy to the beneficiary within seven days of presentation of the letter.

**Votes on Final Passage:**

House	97	0
Senate	47	0

**Effective:** July 27, 1997

**HB 1802**

C 215 L 97

Requiring auto transport companies to report revenues to the UTC on a yearly basis.

By Representatives Hankins, Fisher and Mitchell; by request of Utilities & Transportation Commission.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Auto transportation companies (for-hire buses that operate on a regular route/schedule and airporters), household goods movers (moving and storage companies), solid waste disposal and recycling companies, and steamboat companies (for-hire private ferries) are regulated by the Utilities and Transportation Commission (UTC) with regard to entry, rates, routes, safety and insurance. All carriers pay a regulatory fee that is based upon the company's intrastate gross operating revenues.

Auto transportation companies are required to pay quarterly a regulatory fee of two-fifths of 1 percent of the company's intrastate gross operating revenues. At the same time, the UTC collects a vehicle license fee based on intrastate mileage that is deposited in the motor vehicle fund: (1) the fee for buses propelled by gasoline is 15 cents per 100 miles traveled; and (2) the fee for buses using diesel, natural gas, other special fuels, electricity, or steam is 20 cents per 100 miles traveled. All other regulated carriers pay the regulatory fee annually.

**Summary:** The UTC regulatory fee and the vehicle license intrastate mileage fee for auto transportation companies are collected annually by the commission.

**Votes on Final Passage:**

House	94	0
Senate	44	0

**Effective:** July 27, 1997

**SHB 1806**

C 226 L 97

Increasing penalties for the illegal killing and possession of wildlife.

By House Committee on Natural Resources (originally sponsored by Representatives Alexander, Grant, Mastin, Buck, Johnson, Butler, Hatfield, Kessler, Sheldon, Chandler, Thompson, Regala, Anderson, Pennington, Clements, Kenney, Sullivan, Blalock, Conway, Mulliken, Tokuda, Constantine, Mason and Schoesler).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** A person convicted of the illegal killing or possession of wildlife must reimburse the state in amounts specified in statute based on the type of wildlife killed or

## SHB 1813

possessed. These reimbursements are deposited into the public safety and education account.

**Summary:** The Legislature finds that wildlife is of great ecological, recreational, aesthetic, and economic value to the people of the state. The Legislature also finds that the illegal taking and possession of certain valuable wildlife species is increasing at an alarming rate and that the state should be paid restitution for the loss of individual members of these wildlife species.

The amount of required restitution is increased for the illegal killing or possession of moose, mountain sheep, mountain goat, elk, deer, black bear, cougar, mountain caribou, grizzly bear, and other wildlife species classified as endangered by the Fish and Wildlife Commission. New restitution categories are established for trophy animal deer, elk, and mountain sheep, and a new subsection defines what constitutes a "trophy animal." A person assessed a restitution for the illegal killing or possession of wildlife will have his or her hunting license revoked and all hunting privileges suspended until the restitution is paid.

**Votes on Final Passage:**

House	97	0
Senate	37	0

**Effective:** July 27, 1997

**SHB 1813**  
**PARTIAL VETO**  
C 61 L 97

Regulating sales and use tax exemptions for motion picture and video production equipment and services.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Dunn, Van Loven, Veloria, Alexander, Sheldon, Morris, Mason, McDonald, Honeyford and L. Thomas).

House Committee on Trade & Economic Development  
House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Washington's tax structure includes a retail sales and use tax. A retail sales tax is imposed on the sale of most items of tangible personal property and some services purchased at retail. The state also imposes a use tax on items used in the state, where the acquisition was not subject to the retail sales tax. This includes purchases made in other states, purchases where the seller does not collect sales tax, and items produced for use by the producer.

The state's retail sales and use tax is based on 6.5 percent of the selling price. Local governments may also impose an additional sales and use tax of up to 1.7 percent of the selling price. The combined state and local retail

sales and use tax rate currently ranges from 7 percent to 8.2 percent.

In 1995, the Legislature exempted the rental of production equipment or the sales of production services to a motion picture or video production business from state and local sales and use taxes. This exemption included, but was not limited to cameras, lighting equipment, helicopters rented for movie or video production, and vans and trucks specifically equipped for movie and video production.

**Summary:** The sales and use tax exemption on production equipment rented to motion picture or video production businesses is expanded to include other vehicles used solely for production activities.

**Votes on Final Passage:**

House	92	5
Senate	47	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the emergency clause.

**VETO MESSAGE ON HB 1813-S**

*April 17, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington*

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1813 entitled:*

*"AN ACT Relating to sales and use tax exemptions for motion picture and video production equipment and production services;"*

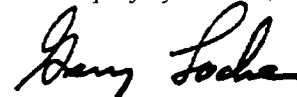
*Substitute House Bill No. 1813 contains an emergency clause in section 2. The emergency clause was included to make the bill's tax reduction available to motion picture and video production companies as soon as possible.*

*Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.*

*For these reasons, I have vetoed section 2, of Substitute House Bill No. 1813.*

*With the exception of section 2, Substitute House Bill No. 1813 is approved.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**2SHB 1817**  
C 355 L 97

Authorizing reclaimed water demonstration projects.

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Kessler, Alexander, Linville, DeBolt, O'Brien, Skinner, Wolfe,



McMorris, Ogden, D. Sommers, Hankins, Cooke and Mason).

House Committee on Agriculture & Ecology  
 House Committee on Appropriations  
 Senate Committee on Agriculture & Environment  
 Senate Committee on Ways & Means

**Background:** The Legislature has adopted legislation to encourage the use of reclaimed water. Reclaimed water can be used in many instances instead of water that is otherwise suitable for drinking purposes. Funding demonstration projects that are varied in nature is expected to help provide the experience necessary to refine the technologies so that reclaimed water can be used in a more cost-effective manner.

**Summary:** The Department of Ecology is directed to establish and administer a reclaimed water demonstration program in cooperation with the Department of Health. The demonstration program consists of five demonstration projects.

The Department of Ecology must enter into a grant agreement with each of the demonstration project jurisdictions by September 30, 1997. Each agreement must include reporting requirements, time-lines, and a fund disbursement schedule based upon agreed project milestones. The Department of Ecology must report to the appropriate legislative committees on the results of the program upon completion of the projects.

Pilot projects that discharge or deliver reclaimed water into federal reclamation project or irrigation district facilities must meet the requirements of the facilities' operating entity for such discharges or deliveries. No irrigation district is liable for any damages to persons or property arising from the demonstration projects.

The five reclaimed water demonstration projects are:

- (1) the city of Ephrata will use Class A reclaimed water for surface spreading to recharge the groundwater and reduce the nitrate concentrations that exceed standards for drinking water;
- (2) Lincoln County will study using reclaimed water to transport 22 million gallons a day from Spokane to water sources that will put water back into long depleted streambeds;
- (3) Royal City will replace an interim emergency sprayfield by using 100 percent of its discharge as Class A reclaimed water to enhance local wetlands and lakes in the winter and potentially irrigate a golf course;
- (4) the city of Sequim will implement a tertiary treatment system and reuse 100 percent of its wastewater to reopen an existing shellfish closure area, improve streamflows into the Dungeness River, and provide a sustainable water supply for irrigation; and
- (5) the city of Yelm will use 100 percent of its wastewater to provide alternative water supply for irrigation and industrial use to offset increased demands for water, protect Nisqually River chum salmon runs, and

develop experimental artificial wetlands to test low-cost treatment options.

**Votes on Final Passage:**

House	98	0	
Senate	45	1	(Senate amended)
House	89	0	(House concurred)

**Effective:** July 27, 1997

**HB 1819**

C 435 L 97

Establishing the confidentiality of voluntary compliance efforts by financial institutions.

By Representatives Benson, Grant, L. Thomas and Zellinsky.

House Committee on Law & Justice  
 Senate Committee on Financial Institutions, Insurance & Housing

**Background:** The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "privileged communications." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that protection is merited.

Examination reports and information obtained by the Department of Financial Institutions in the process of conducting bank examinations are generally confidential and not subject to public disclosure. This information is discoverable in a civil action to the extent the information is relevant and otherwise unobtainable by the requesting party. There is no specific protection of confidentiality for internal reports or examinations conducted by a financial institution.

In 1996, the U.S. Congress created a privilege for a report or result of a self-test conducted by a creditor or a financial institution to determine compliance with the federal Equal Credit Opportunity Act and the federal Fair Housing Act, both of which generally prohibit discriminatory acts in credit transactions. The privilege applies only if the creditor has identified a possible violation of one of the acts and has taken appropriate corrective action to address the possible violation. In addition, the privilege may be asserted only in a proceeding in which a violation of one of the acts is alleged or in an examination or investigation of compliance with the provisions of these acts.

**Summary:** A legislative finding is made that efforts by financial institutions to comply voluntarily with state and federal requirements are vital to the public interest and that possible discovery and use of work produced in connection with voluntary compliance efforts has a chilling effect on the use and effectiveness of these efforts.

A financial institution's compliance review documents are confidential and are not discoverable or admissible as evidence in any civil action. Compliance review personnel may not be required to testify at a deposition or trial in a civil matter concerning the contents of a compliance review, compliance review documents, or the actions taken by the financial institution in connection with a compliance review.

A "compliance review" is defined as a self-critical analysis conducted to review or evaluate past conduct, transactions, policies, or procedures for the purpose of confidentially (1) ascertaining, monitoring, or remediating violations of federal or state laws, regulations, or mandatory policies, statements, or guidelines; (2) assessing and improving loan quality, loan underwriting standards, or lending practices; or (3) assessing and improving financial reporting to federal or state regulatory agencies. Compliance review personnel are those persons directed by the management of a financial institution to conduct a compliance review.

A "compliance review document" is defined as any record prepared or created in connection with a compliance review by compliance review personnel. Compliance review documents do not include underlying documents, data, or factual materials that are the subject of or source materials for the compliance review.

The privilege for documents and information relating to a compliance review does not apply: (1) if the privilege has been expressly waived; (2) if documents or matters concerning the compliance review were voluntarily disclosed, but only to the extent of the disclosure; or (3) to any information required by statute or regulation to be maintained by or provided to a governmental agency while the information is in the possession of the agency.

A court may inspect documents for which the privilege is claimed to determine whether or not the privilege applies. The court may order the disclosure of any documents the court determines are not covered by the privilege.

**Votes on Final Passage:**

House	74	22	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	27	21	(Senate receded)

**Effective:** July 27, 1997

**EHB 1821**

C 7 L 97

Consolidating business and occupation tax rates into fewer categories.

By Representatives B. Thomas, Mulliken, Bush, Zellinsky, Kastama, Sullivan, Wensman, Carrell and Schoesler.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. It is imposed on the gross receipts of business activities within the state. After a temporary surtax expires on July 1, 1997, the principal B&O rates will be as follows:

Manufacturing, wholesaling and extracting	0.484%
Retailing	0.471%
Services:	
- Selected Business Services	2.0%
- Financial Services	1.6%
- Other activities	1.75%

Selected business services include computer services, data processing, legal services, accounting, business consulting, business management, protective services, and public relations. Financial service businesses provide banking, loan, investment advisory, or other financial services. The "other activities" category includes medical doctors, dentists, real estate management, cable TV, beauty and barber shops, and advertising services among many others.

In 1993, the B&O tax rate on selected business services was increased from 1.5 percent to 2.5 percent, the rate on financial businesses was increased from 1.5 percent to 1.7 percent, and the rate on all other services was increased from 1.5 percent to 2.0 percent.

In addition to these permanent rate increases, in 1993 a surtax of 6.5 percent was imposed on several B&O tax classifications. Manufacturing, wholesaling, extracting, and the "other activities" classification are among those subject to the surtax. Selected business services, financial services, and retailing are not subject to the surtax.

In 1996, the 1993 service rate increases were reduced by 50 percent. The rate on selected business services was decreased from 2.5 percent to 2.0 percent, the rate on financial businesses was decreased from 1.7 percent to 1.6 percent, and the rate on all other services was decreased from 2.0 percent to 1.75 percent. Including the surtax, the rate on other services is 1.829 percent until the surtax expires on July 1, 1997.

In 1994, the Legislature enacted a B&O tax credit for high technology research and development. Firms engaged in biotechnology, advanced computing, electronic device technology, advanced material, and environmental technology pursuits are eligible for the credit if they spend at least 0.92 percent of their gross income on research and development. Generally, the credit is equal to 2.5 percent of a firm's spending in research and development. However, nonprofit organizations receive a credit is equal to 0.515 percent of their spending in research and development. The credit is limited to \$2.0 million per year.

When the credit was enacted, the highest B&O tax rate on services was 2.5 percent, and the rate on nonprofit organizations engaged in research and development was 0.515 percent.

**Summary:** Effective July 1, 1997, B&O tax rates are reduced to their pre-1993 levels as follows: the selected business service rate is reduced from 2.0 percent to 1.5 percent; the financial business service rate is reduced from 1.6 percent to 1.5 percent; and the "other activities" rate is reduced from 1.75 percent to 1.5 percent. In addition, the selected business service classification and the financial business classification are consolidated into the "services and other activities" classification.

The rates provided in the high technology B&O tax credit are reduced to 0.484 percent for nonprofit organizations and to 1.5 percent for other eligible firms.

**Votes on Final Passage:**

House	97	1	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** July 1, 1998

**SHB 1826**  
**PARTIAL VETO**  
C 448 L 97

Administering the moneys derived from certain public lands.

By House Committee on Natural Resources (originally sponsored by Representatives Thompson, Sheldon, DeBolt and Schoesler).

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Natural Resources manages forest board transfer lands on behalf of 21 counties. The department may deduct a maximum of 25 percent from the proceeds derived from timber sales and other revenue generating activities on the lands. These management funds are deposited into the forest development account and may be used for administration, reforestation, and protection of the forest lands. The remaining proceeds go to the respective counties and are distributed to various funds in the same manner that general tax dollars are distributed.

The department also manages what are referred to as forest board purchase lands. After a 50 percent deduction for management expenses, the revenues from these lands are distributed to the state general fund for the benefit of public schools and also to counties.

The department may sell products from the forest board lands or lease these lands if the department finds the sale or lease to be in the best interests of the state. A 1996 opinion from the attorney general determined that the forest board transfer lands are trust lands pursuant to a

legislative enactment. The opinion also determined that the statutes governing the forest board transfer lands create a single trust, which may be managed as an undifferentiated whole. The forest board purchase lands are not trust lands.

**Summary:** The maximum amount that the Department of Natural Resources may deduct for management expenses of the forest board transfer lands is reduced from 25 percent to 22 percent. By June 30 of each year, the Board of Natural Resources must establish the percentage and a budget for the following fiscal year in such a manner that the balance in the forest development account does not exceed the amount necessary for six months of operating expenses for administration, reforestation, and protection of the forest board transfer lands.

For moneys due to counties from the forest board transfer and purchase lands, the department must certify to the state treasurer the amounts to be distributed within seven working days of receipt of the moneys. The state treasurer must distribute funds to the counties four times per month, with no more than 10 days between each payment date.

The department may sell products from the forest board lands or lease these lands if the department finds that the sale or lease is in the best financial interests of the respective county trust beneficiaries, rather than in the best interests of the state.

A new reporting requirement applies to the forest board lands and to the other trust lands managed by the department. The commissioner of public lands must provide annual reports to the respective trust beneficiaries, including each county. The report must include, but is not limited to, the following: acres sold, acres harvested, volume from these acres, acres planted, number of stems per acre, acres precommercially thinned, acres commercially thinned, acres partially cut, acres clear-cut, age of final rotation for acres clear-cut, total number of acres off-base for harvest, and an explanation of why those acres are off base.

**Votes on Final Passage:**

House	70	26	
Senate	43	5	(Senate amended)
House	73	25	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed provisions reducing the management expense deduction for the forest board transfer lands and requiring the department to develop and meet specified budget objectives for the forest development account. The Governor also vetoed a provision changing the criteria by which the department approves the sale or lease of timber products.

**VETO MESSAGE ON HB 1826-S**

*May 20, 1997*

*To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington*

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 2, Substitute House Bill No. 1826 entitled:

“AN ACT Relating to the moneys derived from public lands managed by the commissioner of public lands;”

Substitute House Bill No. 1826 makes changes to the management of state Forest Board Lands. I have concerns about two sections.

Section 1 reduces the maximum percentage of revenue from state Forest Board Lands that can be retained in the Forest Development Account (FDA) from 25 percent to 22 percent. In addition, the Board of Natural Resources is to establish a budget that maintains no greater than six months' operating expenses for the FDA. This would result in a one-time windfall of approximately \$19 million to the trust beneficiaries in Fiscal Year 1999. However, by Fiscal Year 2001 revenues would not be able to keep pace with current agency management activities. This provision would limit current and future revenue generating abilities. The Board of Natural Resources has already reduced the percentage of revenue retained by the FDA to 22 percent. It is preferable to allow the Board of Natural Resources to retain management flexibility.

Section 2 changes the management objectives for state Forest Board Lands from the best interest of the state to the best financial interest of the respective county trust beneficiaries. This is a fundamental change in state policy. Although counties do receive significant financial benefit from these lands, local schools and the state General Fund also receive revenue from these lands. These changes are not in the best interests of the citizens of our state.

For these reasons, I have vetoed sections 1 and 2 of Substitute House Bill No. 1826.

With the exception of sections 1 and 2, Substitute House Bill No. 1826 is approved.

Respectfully submitted,

Gary Locke  
Governor

**HB 1828**

C 216 L 97

Establishing inspection requirements for private residence conveyances.

By Representative Van Luven.

House Committee on Commerce & Labor  
Senate Committee on Financial Institutions, Insurance & Housing  
Senate Committee on Commerce & Labor

**Background:** The Department of Labor and Industries administers and enforces a statutory program providing for the safe operation, erection, installation, alteration, inspection, and repair of elevators, escalators, dumbwaiters, belt manlifts, moving walks, and other similar conveyances. The department has adopted rules and has established fees for the enforcement and administration of the statute.

The statute applies to publicly and privately owned conveyances. An operating permit is required for each conveyance operated in the state.

An installation permit must be obtained from the department before a conveyance is built, installed, moved, or altered. A permit is not required for repairs or replacement normally necessary for maintenance when parts of equivalent materials, strength, and design are used.

The statute requires annual inspection and testing of conveyances by the department.

**Summary:** Private residence conveyances operated exclusively for single-family use must be inspected and tested only when a permit is issued for installing, moving, or altering the conveyance, or when the Department of Labor and Industries investigates accidents or violations of the statute governing conveyances.

At the request of an owner, the department may perform additional inspections of a private residence conveyance. The department may not perform an inspection until an owner pays a fee assessed by the department.

A “private residence conveyance” means a conveyance installed in or on the premises of a single-family dwelling and operated to transport persons or property from one elevation to another.

**Votes on Final Passage:**

House	97	0
Senate	46	0

**Effective:** July 27, 1997

**EHB 1832**

C 227 L 97

Transferring funds for plant pest control activities.

By Representatives Clements, Linville and Lisk.

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** State law authorizes the director of the Department of Agriculture to establish a fee-for-service program to provide, upon request, special inspections and other special certifications and activities needed to facilitate the movement or sale of plant products or bees and related products. Monies collected from providing these services are deposited in the Plant Pest Account in the Agricultural Local Fund. Monies from the account are used, without appropriation, to provide these services on a revolving account basis.

The horticultural laws establish or authorize the director of the Department of Agriculture to establish standards and grades for horticultural plants and products. For the purposes of these laws, the state is divided into three horticultural inspection districts. The director assigns inspectors-at-large to the districts to provide inspection services. The fees these inspectors collect for these services are deposited in an Horticultural District Fund in the

district. The district fund is used on a revolving account basis by the inspectors to defray their expenses for providing the services. Some of the monies in the district fund are also to be transferred to the state Horticulture Inspection Trust Fund. The state fund is used to reimburse certain expenses for the horticulture program incurred at the state level and for making certain refundable transfers to district funds. If, at the end of the fiscal year, there are monies in the district fund beyond those needed to defray expenses from that fiscal year, the excess is to be used to reduce the fees charged for services in the succeeding fiscal year.

By rule, Horticultural Inspection District 2 is made up of Kittitas, Klickitat, Skamania, Yakima, and a portion (the Prosser, Kiona, and Benton City areas) of Benton County.

**Summary:** From monies in the district fund derived from state inspections of tree fruits, the inspector for Horticultural Inspection District 2 may transfer \$200,000 to the Plant Pest Account. The transferred monies are to be used solely for apple maggot control activities in the district. The transfer is to take place by June 1, 1997. Any portion of this amount that is unexpended by June 30, 1999, is to be returned to the district fund. Among the services the director of agriculture may provide through the use of the Plant Pest Account are pest control activities.

**Votes on Final Passage:**

House	97	0
Senate	45	0

**Effective:** April 26, 1997

## E2SHB 1841

C 266 L 97

Adopting provisions to improve school safety.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Honeyford, Linville, Clements, Carrell, Mielke, Benson, Mitchell, Hickel, Sheahan, Dunn, Skinner, Johnson, L. Thomas and Backlund).

House Committee on Education  
House Committee on Criminal Justice & Corrections  
Senate Committee on Education

**Background:** School Safety. A school district has a duty to exercise reasonable care to protect students from reasonably foreseeable dangers by controlling the conduct of its students.

Gang Activity. A "gang" is any company of persons who act in concert for criminal purposes.

Trespassing on School Grounds. A special statute applicable to public schools provides that a person is guilty of a misdemeanor if the person willfully disobeys an order to leave the school grounds under certain circumstances.

Students' Criminal History. School districts may participate in the exchange of information with law enforcement and juvenile court officials to a certain extent.

When a student transfers to another school, the school forwards various records, but the statute governing records transfer does not directly address transferring criminal history information.

Suspension and Expulsion Policies. Several statutes, administrative rules, and cases delineate a school's authority to suspend or expel students.

The United States Supreme Court has ruled that students have procedural due process rights to prevent erroneous deprivation of the right to attend school.

A teacher may exclude any student from class who disrupts the class. The exclusion may be for all or any part of the balance of the school day, or until the principal and teacher have conferred, whichever occurs first. The teacher must attempt one or more alternative forms of corrective action, except in emergencies. A student may be excluded from a classroom for longer periods of time if the student has repeatedly disrupted the classroom.

A student who defaces school property may be suspended and punished. The parent is liable for damages caused by the student. The school may withhold grades, a diploma, and transcripts until the parent has paid. If the parent and student are financially unable to pay, the school must provide a voluntary work program in lieu of payment.

Dress Codes. A school board may establish schools or programs that parents may choose for their children to attend which require students to conform to a dress and appearance code. The board must accommodate students who may be unable to afford or wear a uniform.

**Summary:** School Safety. The Legislature finds that students and staff need to be safe at school and also finds that particular measures are needed to enhance school security.

Gangs Activity. A student may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds. A "gang" is defined.

A person who threatens another person with bodily injury because the other person refuses to join a gang or has attempted to withdraw from a gang, is guilty of the crime of criminal gang intimidation. Gang intimidation is a class C felony. The offense is ranked on the adult sentencing grid under the Sentencing Reform Act at level III.

Trespassing on School Ground. The crime of willfully refusing to leave school grounds is raised to a gross misdemeanor.

Students' Criminal History. The juvenile court administrator must notify the parents and school principal if an elementary or secondary school student is convicted of any of the following offenses: violent or sex offenses, inhaling toxic fumes, violations of the controlled substances

provisions, liquor violations, or offenses relating to kidnapping, harassment, or arson.

The principal must provide the criminal history information to the student's teachers, supervisors, and other personnel who need to know for security reasons. Otherwise the information is confidential except when it may be disseminated pursuant to a statute or federal law.

When a student transfers to another school, the criminal history information must be sent to the new school, along with records of immunization, academic performance, and attendance. If a student is transferring from a private school and did not pay tuition, fees, or fines, the private school may withhold the student's transcript.

**Suspension and Expulsion Policies.** Schools must adopt policies to restore discipline to the classroom. The policies must allow teachers to take disciplinary action to correct a student who disrupts classroom activities. If a student commits certain offenses, such as an assault against a teacher, the student must not be assigned to the teacher's classroom. Similar restrictions apply if a student commits an offense against another student. A principal must consider long-term suspension or expulsion if a student repeatedly violates school rules or laws.

School districts may adopt policies that limit possession of paging telecommunication devices or cellular telephones.

A teacher may suspend a disruptive student from the teacher's classroom for the day of the violation and two more days, or until the principal and teacher have conferred, whichever occurs first.

School principals and teachers must confer annually to establish criteria to determine when teachers must complete classes in classroom management skills.

If a student is suspended for damaging property belonging to the school, a contractor, a school employee, or another student, the student may not be readmitted until payment in full has been made for the damage, or until directed by the superintendent of schools. If the property damaged is a school bus, the student may not ride on a school bus until full payment is made or the superintendent of schools readmits the student. The school may continue to provide a work program in lieu of payment of money.

**Dress Codes.** Dress codes may prohibit wearing gang-related apparel, but the school must notify the students and parents of what clothing and apparel the school considers to be gang related and may not impose disciplinary action against a student without providing the notice.

**Votes on Final Passage:**

House	91	5	
Senate	40	1	(Senate amended)
House	96	2	(House concurred)

**Effective:** July 27, 1997

Allowing wine manufacturers that manufacture other liquors to sell the manufacturer's liquor products on its licensed premises.

By Representatives Honeyford, McMorris and Dunn.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The sale of spirituous liquor by the bottle to the public is controlled by the Liquor Control Board. The board operates liquor stores throughout the state where the public may purchase bottled liquor. In communities where no liquor store is located, the board may appoint liquor vendors who may sell spirituous liquor to the public in the same manner as a state liquor store.

Certain wineries produce a product that is over 24 percent of alcohol by volume making the product a spirituous liquor. Such a winery is appointed as a liquor vendor allowing it to sell its own product at its licensed premises only.

The attorney general issued an opinion in February 1996, interpreting the board's authority to appoint wineries as liquor vendors for the sale of their own product on their licensed premises. The attorney general concluded that the board does not have authority to appoint a winery or a brewery to act as a liquor vendor in this manner. Wine products that qualify as spirituous liquor may not be sold at the winery.

**Summary:** The Liquor Control Board may appoint as a liquor vendor, a licensed manufacturer that also manufactures liquor products other than wine, to sell its own liquor products at its licensed location.

**Votes on Final Passage:**

House	90	1
Senate	42	0

**Effective:** July 27, 1997

Adopting the long-term care reorganization and standards of care reform act.

By House Committee on Appropriations (originally sponsored by Representatives Dyer, Backlund, Skinner, Talcott, Schoesler, Mitchell and Cooke).

House Committee on Health Care  
House Committee on Appropriations

**Background:** The Department of Social and Health Services (DSHS) will spend over \$10 billion in federal and state dollars to serve approximately a million citizens

during the 1995-97 biennium. It serves 20 percent of the state population and 30 percent of all Washington families. Seventy percent of the DSHS budget is expended for health and long-term care services for low income families, the elderly, and persons with physical, mental, and developmental disabilities.

The administration and delivery of state funded long-term care services is conducted by three major administrative components within the Department of Social and Health services - Aging and Adult Services Administration, Mental Health Services, and Developmental Disabilities Services. Boarding homes, a key long-term care residential program, is administered by the Department of Health.

Aging and Adult Services Administration. Aging and Adult Services is the largest of the three long-term care programs. It is mandated to develop and manage a comprehensive and coordinated service delivery system responsive to the needs of older and disabled adults. Aging and Adult Services administers the following programs:

- residential care, home care, and nursing home care
- functional assessment for disabled adults and seniors
- financial eligibility for long-term care benefits
- case management for the elderly in residential care settings
- coordination with Area Agency on Aging
- quality assurance programs for nursing homes, adult family homes, assisted living, and adult residential care
- adult protective services
- Nursing Home Medicaid Payment Administration

These residential and community services programs provide services to approximately 38,000 individuals. Nursing home services alone make up for 14,704 of the individuals served while the remaining 22,900 persons are provided community services. The division is responsible for overseeing a total of approximately 52,600 long-term care beds in the state.

Mental Health Services. Mental Health Services develops, manages, supports, and evaluates an integrated comprehensive system of mental health services for mentally ill persons in Washington. Services administered by this division include:

- community mental health centers
- adult residential care treatment facilities
- involuntary investigation and treatment services
- children's long-term residential treatment
- combined specialized foster care and mental health treatment
- early intervention services
- institutional services at Eastern State Hospital and Western State Hospital

The majority of direct services are managed and provided through regional support networks in local communities.

Developmental Disabilities Services. Developmental Disabilities Services provides a range of services that are designed to care for, habilitate, and case manage persons with developmental disabilities. About one in every 161 persons in Washington State is severely developmentally disabled and requires some form of long-term care service. For a person to be eligible for state supported services, their developmental disability must be attributable to mental retardation, cerebral palsy, epilepsy, autism, or any condition that is closely related to mental retardation. The services provided by the division include:

- case management
- residential habilitation centers
- family support
- county contracted services
- group homes
- tenant support
- alternative living
- Community Institutes for the Mentally Retarded (IMRs)

The total number of persons served by the department is approximately 26,000.

Overlap in Service Delivery. Both boarding homes and adult family homes provide services to individuals whose services are administered in different divisions. In the case of boarding homes the administration is in a different department. In any one of these facilities as many as three administrative divisions, and two departments in the case of boarding homes, could have monitoring oversight specific to the clients they administer.

There are 2,200 adult family homes who have a total of approximately 10,200 beds statewide. The range of services and the types of residents vary greatly among the adult family homes across the state. Adult family homes are licensed and monitored by the Department of Social and Health Services. The number of adult family homes is growing by 30-50 beds a month. In this setting, 1,423 of the homes serve one or more persons with Alzheimer's disease, 1,030 of the homes serve one or more persons with developmental disabilities, 858 homes provide residential care for one or more persons with mental illness, and 820 homes provide respite care for persons living in the community. Boarding homes have a population diversity similar to adult family homes. As of January 1, 1997, there were 408 boarding homes with a 16,441 bed capacity. The elderly population make up 63.6 percent of the residents of boarding homes while developmental disabled persons are 8.1 percent, persons with dementia 14.6 percent, and persons with mental illness are 11.9 percent of the boarding home population. The Department of Health is responsible for licensing and monitoring boarding homes based on standards for construction, environmental

safety, and resident personal health care and rights, while the Department of Social and Health Services is responsible for determining the services, payment for the services and client eligibility.

**Regulatory Issues.** In 1994, the legislation was enacted that significantly expanded the rights of residents in boarding homes and adult family homes. The legislation directed the Washington State Long-term Care Ombudsman, which is a non-governmental organization, to report on the implementation of the law. The ombudsman did a subsequent follow-up study. The latest study of boarding homes and adult family homes by the state Long-term Care Ombudsman indicated that the Department of Health has not been able to maintain the type of regulatory program for boarding homes that is needed. The study recommended that the regulatory functions within the Department of Health be transferred to the Department of Social and Health Services. The Department of Health has been conducting its regulatory duties with limited staff and resources in comparison with other long-term care regulators such as those for nursing homes and adult family homes. The study also made recommendations on increasing the regulatory practices of these facilities and consumer and other protections for long-term care residents.

**Summary: Joint Committee on Long-term Care Reorganization, Reform and Quality Standards.** A joint legislative committee is established, consisting of four members of the House of Representatives and four members of the Senate. The joint committee is mandated to

- 1) review the need for reorganization and reform of long-term care;
- 2) review the quality standards developed;
- 3) initiate or review relevant studies on long-term care;
- 4) review and eliminate unnecessary rules and paperwork;
- 5) suggest cost efficiencies;
- 6) list all non-means tested programs and activities funded by state and federal government;
- 7) suggest methods for a single point of entry for service eligibility;
- 8) evaluate long-term care training;
- 9) describe current facilities, services, eligibility requirements, staffing, and physical plant requirements for all long-term care services;
- 10) determine the appropriateness and efficacy of long-term care services;
- 11) assess the adequacy of the long-term care discharge and referral process;
- 12) determine the adequacy of long-term care supervision and training;
- 13) identify opportunities for consolidation between categories of care; and
- 14) determine if payment rates are adequate to cover varying client needs.

**Quality Standards and Complaint Enforcement. *Whistle Blower Provisions:*** Whistle blower provisions are established for persons who experience workplace reprisal or retaliatory action as a result of communication with government agencies about suspected abuse, neglect, financial exploitation, or abandonment. The provisions apply to employees in a nursing home, adult family home, state hospital, or boarding home. Measures for confidentiality are established. The whistle blower protections do not prevent the termination or suspension of employees for other lawful purposes. In addition, a facility with fewer than six residents may also terminate employees if the facility can demonstrate to the Department of Social and Health Services that they are unable to meet payroll. The department is given rulemaking authority to implement the whistle blower complaints.

**Long-term Care Ombudsmen:** The Department of Social and Health Services is required to talk to residents and their representatives during inspections. All licensed facilities must be covered by the ombudsman enforcement remedies and the department must provide standards to providers in a form that is easy to understand.

**Complaint Investigation Protocols:** The Department of Social and Health Services is mandated to enhance its complaint investigation protocols by requiring the following:

- the department must conduct a preliminary review of the complaint;
- the department must assess the severity and assign an appropriate response time;
- complaints involving imminent danger to the health and safety of a resident must be investigated on-site and within two days;
- the complainant must be promptly contacted by the department and informed of the right to meet the inspectors at the site of the alleged violations, the proposed course of action, and the right to a written report;
- the department must interview the complainant, unless anonymous, and the resident, when possible, in addition to the facility staff, and family members;
- technical assistance must be provided by the department when appropriate;
- sanctions must be implemented against facilities and individuals for complaints involving harm to a resident; and
- facilities must report substantiated complaints of neglect, abuse, exploitation, or abandonment of residents to the appropriate law enforcement agencies, the attorney general, and appropriate disciplinary boards.

Measures are outlined to protect confidentiality of the witness, resident, provider, officer, agent of the department, and employee involved in the allegations. Protections are established for the ombudsman and the resident involved in the complaint.



The department is directed to use a scope and severity scale when imposing any sanctions. The same protections are extended to residents of other long-term care facilities. Facility interference with the duties of the ombudsman is prohibited. Adult family homes are given the same due process protections as boarding homes.

*Facility Standards:* A long-term care facility is required to admit and maintain only those individuals whose needs the facility can safely and appropriately serve to the best of its ability. Persons who are eligible for Medicaid must receive a comprehensive assessment consisting of their medical history, necessary and prohibited medications, diagnosis, significant known behaviors or symptoms that may cause concern, or require special care, mental illness, activities and services preferences, and level of personal care needs.

Facilities are required to clearly inform residents at least every two years about the services, items, and activities that are customarily available in the facility or arranged by the facility and the charges for those services, items and activities. Items and activities not covered by the facility's per diem rate must also be reported every two years. Residents must be informed 30 days in advance in writing before any changes in the availability or charges of services, items, or activities or changes in the facility's rules. Exceptions may be made for unusual circumstances and for facilities that have six or fewer residents.

Long-term care facilities are required to fully disclose to potential residents who are Medicaid eligible, the service capabilities of the facility prior to the admission to the facility.

*Consumer Protection:* The Department of Social and Health Services is required to identify other care options for Medicaid residents with care needs higher than the licensed capabilities of the facility. Facilities must first try to reasonably accommodate the care needs of an individual before the individual is transferred or discharged.

Facilities that require an advance notice before a resident is transferred from the facility, or require a minimum stay fee, are required to disclose in writing, using clear language that the resident can understand, a statement of prepaid charges. In addition, facilities are required to disclose in writing prepaid charges that will be refunded to the resident if the resident leaves. If the facility does not comply with the required notice, the deposits, admissions fees, prepaid charges, or minimum stay fees may not be kept by the facility. Facilities are allowed to retain an additional amount of a deposit to cover reasonable and actual expenses resulting from a resident's move. However, these charges are not to exceed five days' per diem charges.

*Prohibition Against Signing a Waiver of Rights:* All long-term care facilities are prohibited from requiring or requesting that residents sign a waiver of potential liability for losses of personal property or injury.

*Enhanced Residential Care:* Facilities that choose to provide enhanced residential care may be exempted by the Department of Social and Health Services to make structural modifications to existing building construction. The Department of Social and Health Services is required to make a reasonable effort to contract for at least 180 state clients in enhanced adult residential care by June 30, 1999. In these contracts the payment rate may not be less than 35 percent or greater than 40 percent of the average nursing home medicaid payment rate.

*Hospital Discharge Long-term Care Screening:* Hospitals are given the opportunity to voluntarily choose to work together with the Department of Social and Health Services in assisting patients to find long-term care services. Standards are established for hospitals that voluntarily choose to not work with the department to conduct long-term care discharge planning.

*Quality Improvement Inspections:* The Department of Social and Health Services is required to interview an appropriate percentage of residents, family members, residents managers, and advocates, in addition to providers and staff, when conducting licensing inspections. Providers must receive a clear set of health, quality of care, and safety standards from the department, and be given the opportunity to improve quality by first having their problems addressed by training and consultation.

*Enforcement Standards:* If a facility is found to have delivered care that seriously endangered the safety, health, or well-being of residents, or if a facility's failure to deliver care resulted in the endangerment of the resident's safety, health, or well-being, the facility must be subject to prompt and specific enforcement including reasonable conditions on the facility's license or contract.

*Background Screening:* The Department of Social and Health Services is encouraged to provide timely screening of employees for criminal histories, skills, level of training, and education. Employees may be hired provisionally pending the results of their background checks.

Staff or providers of long-term care who have unsupervised access to vulnerable persons and who have a final order or finding of fact issued by a court of law or a disciplining authority for abuse, neglect, exploitation, or abandonments of a minor or vulnerable adult are prohibited from working with vulnerable adults.

Upon the request of an entity that provides services to vulnerable adults and children, the Washington State Patrol is required to disclose the criminal history record for any applicant for employment who provides services to vulnerable populations.

The requirement for a background check when hiring an employee or engaging a volunteer is clarified and expanded to also cover national conviction background checks, at the point in time when background checks are required by state law. Whenever a state or national convictions record check is required by state law, an individual, or a business or organization is allowed to hire

an individual pending a completed state or federal background check.

The types of applicants for employment or licensure for whom a criminal history investigation is required are expanded to cover applicants for work in adult family homes, boarding homes, veterans' homes, nursing pools, all developmental disability services, and licensed home health, hospice, and home care agencies. Expanded coverage includes both facilities licensed by the Department of Social and Health Services and additional services contracted by the department.

If an individual who participates in the individual provider program chooses to hire or retain an employee to provide care for the individual and the employee has a conviction that would disqualify the employee from employment with the Department of Social and Health Services, the department may deny payment for the services. Denial of payment does not apply until the client has been notified by the department that the provider has a disqualifying conviction.

A nursing pool is required to conduct or cause to be conducted, background checks on all employees and independent contractors associated with the agency before providing services to vulnerable persons on behalf of the nursing pool agency. Long-term care facilities and services are included on the list of health care facilities and agencies that are required to use only those employees from a nursing pool who have had a criminal background check. The Department of Health is required to develop additional requirements for licensing and relicensing nursing pools consistent with the new requirements for background checks.

The state's liability is limited for any lawful release of criminal background information.

Nursing homes, boarding homes, and adult family homes are allowed to share criminal background inquiry information results on past employees, if terminated within one year and if the information is no more than two years old. Health care facilities are prohibited from relying on a previous criminal background check if the prospective employer knows or has reason to believe that the applicant has subsequently been convicted of a disqualifying crime or has had a disciplinary board finding or nurse aide registry finding entered. Privacy right protections are established.

*Ombudsman Toll Free Number Program:* The long-term care ombudsman toll free number program is expanded to include the posting of the department's toll free number at all facilities that provide services by license or contract to the Department of Social and Health Services. This includes group homes, boarding homes, and other facilities not currently required to post the ombudsman toll free number.

*Long-term Care Training:* The Department of Social and Health Services is required to promote the development of a training system for long-term care that is based on modules and is relevant to the needs of residents, pro-

viders, and staff. The department must also improve access to training. Within existing funds, the department must develop training that qualifies towards the requirement for a nursing assistant certificate.

*Quality Standards Committee:* The Department of Social and Health Services is directed to establish a quality improvement standards committee within existing funds.

*Estate Recovery/Consumer Protection/Disclosure. Reimbursement for Long-Term Care:* The Department of Social and Health Services is mandated to seek reimbursement for nursing home care or at-home services provided prior to October 1, 1993, from the estate of a deceased recipient. The department is authorized to file liens to secure the state's interest in real property. The use of community property agreements as a way to avoid debt owed the state for long-term care costs is eliminated. Adult protective services costs are exempted from recovery. The Office of Financial Management is required to review the cost and feasibility of the Department of Social and Health Services collecting the client co-payment for long-term care and the cost to community providers under the current system for collecting the client co-payment in addition to the amount charged to the client for estate recovery. The Office of Financial Management is required to report to the Legislature by December 12, 1997.

*Consumer Protection/Disclosure:* The Department of Social and Health Services must fully disclose the terms and conditions of estate recovery. By November 15, 1997, the department must report to the Legislature on the costs of identifying direct and indirect costs associated with the individual provider program.

*Adult Family Homes. Adult Family Home Limited Moratorium:* A limited moratorium on the authorization of adult family home licenses is established. A determination of when it is safe to remove the moratorium may occur if all quality standards have been reviewed by the secretary of the Department of Social and Health Services and deemed sufficient to protect the safety and health of residents and the adult family home owners and operators have been notified of the standards. The moratorium is lifted in December 1997, or at a date determined by the secretary.

The department may conduct a review of the cost and feasibility of creating an Adult Family Home Advisory Committee.

*Utility Rates:* Adult family homes are considered a family residence for the purpose of utility rates.

*Miscellaneous Provisions. Pilot Plan for Implementing Accreditation Program for Boarding Homes:* The Department of Social and Health Services and the Department of Health may develop a plan for implementing a pilot program for accrediting boarding homes with a recognized non-governmental accreditation organization. If funded, the pilot plan must be presented to the Legislature by January 5, 1998.

*Ombudsman Study:* The Department of Community, Trade, and Economic Development may conduct a study

and make recommendations to implement a single umbrella ombudsman organization to assist persons with developmental disabilities, older Americans, and mentally ill persons. If the study is funded the department is required to report to the appropriate committees of the House of Representatives and the Senate by January 10, 1998.

*Certification Standards for Community Residential Alternatives:* The Department of Social and Health Services may review the cost and feasibility of implementing developmental disabilities certification standards for community residential alternatives such as group homes, alternative living, intensive and other tenant support services, adult family homes, or boarding homes. The areas to be reviewed for certification standards are outlined. If the review is funded, the department is required to report to appropriate committees of the House of Representatives and the Senate by January 30, 1998.

*Criminal Mistreatment of Vulnerable Adults:* A resident of a nursing home, an adult family home, or a frail elder or vulnerable adult is presumed to be a dependent person for purposes of the criminal mistreatment statutes.

The existing crimes of criminal mistreatment in the first and second degree are defined to also apply to a person employed to provide a child or dependent person the basic necessities of life where a risk of bodily harm or actual harm is caused by the reckless withholding of those necessities.

A person is guilty of rape in the second degree when the person engages in sexual intercourse with a frail elder or vulnerable adult where the person has a significant relationship with the victim and is not married to them. A person is guilty of indecent liberties when the person knowingly causes a frail elder or vulnerable adult to have sexual contact where the person has a significant relationship with the victim and is not married to them. A significant relationship is defined to include a person who professionally or voluntarily provides assistance, personal care or organized recreational activities to frail elders or vulnerable adults. The definition of a significant relationship does not include a consensual sexual partner.

A person associated with a licensed agency or facility that provides care or treatment of vulnerable adults and who has direct contact with vulnerable adults is required to truthfully disclose his or her criminal background history or be liable for perjury.

The penalty for failing to report known incidents of abuse or neglect at nursing homes and state mental hospitals to law enforcement officials or the Department of Social and Health Services is increased from a misdemeanor to a gross misdemeanor.

*Nursing Home Resident Protection Program:* The Department of Health in cooperation with the Department of Social and Health Services is required to develop a nursing home resident protection program. The program is required to meet all federal requirements without interfer-

ing with actions taken against health professionals under the Uniform Disciplinary Act.

#### Votes on Final Passage:

House	97	0	
Senate	41	0	(Senate amended)
House			(House refused to concur)

#### First Conference Committee

Senate			(Senate refused to adopt)
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#### Second Conference Committee

Senate			(Senate refused to adopt)
Senate	48	0	(Senate adopted)
House	97	1	

**Effective:** May 16, 1997 (Section 403)  
July 27, 1997

**Partial Veto Summary:** The Governor vetoed the joint legislative oversight committee that was mandated to review long-term care reforms, the mandatory assessment of all potential residents of long-term care facilities, the requirement that DSHS make a reasonable effort to contract for at least 180 nursing home clients in enhanced residential care settings at a specified new rate, the ability for hospitals to choose to participate in the currently mandatory DSHS long-term care discharge planning process, the requirement that the DSHS report to all clients the current expenses incurred for the use of services for the purpose of consumer disclosure on estate recovery, the pilot program for accrediting boarding homes through a private accreditation organization, and the modified Resident Protection Program coordinated between the Department of Health and the DSHS.

#### VETO MESSAGE ON HB 1850-S2

May 16, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3), Engrossed Second Substitute House Bill No. 1850 entitled:

"AN ACT Relating to the long-term care reorganization and standards of care reform act;"

#### Section 104

Section 104 creates a joint legislative committee on long-term care oversight with no termination date. The legislature has always established joint committees by resolution, not by statute. A resolution is the appropriate vehicle to create such a committee. For that reason, I have vetoed section 104.

#### Section 204

Section 204 directs the Department of Social and Health Services ("DSHS") to perform, within available funds, comprehensive assessments of the needs and preferences (including all medical history information, level of personal care needs, and service preferences) of all potential residents of long-term care facilities, whether funded by the state or privately. I have vetoed section 204 because no funding was provided for DSHS to perform assessments on privately funded clients.

#### Section 207

Section 207 would direct DSHS to make reasonable efforts to contract for at least 180 clients, who would otherwise be served in nursing or assisted living facilities, to instead be served in en-

hanced adult residential care settings. The section would also tie the payment rate for these enhanced adult residential care clients to a percentage of the statewide average nursing home rate. The 1997-99 budget anticipates the Community Options Program Entry System (COPEs) adult residential care program will exceed 800 cases. All of these cases could arguably meet the definition of "enhanced adult residential care", and would thus be eligible for the enhanced rate required under this section. The budget does not provide funds to pay a rate equivalent of 35-40 percent of the nursing home rate for this population.

Additionally, tying the payment rate of one community service to the Medicaid nursing home payment rate would create a situation where one community option would receive rate increases in excess of other equally important community services. For these reasons I have vetoed section 207.

Section 208

Section 208 would allow hospitals the choice not to participate with DSHS in discharge planning. This section weakens the department's ability to comply with the objectives contained in the 1997-99 budget to reduce the Medicaid nursing facility caseload by 480 residents. In cooperating with all hospital discharge planners, department staff are able to initiate financial eligibility determinations and expedite long-term care service authorization and payment. The current partnership between DSHS and hospitals has maximized consumer opportunity to choose the most appropriate long-term care setting. For these reasons I have vetoed section 208.

Section 305

Section 305 would direct DSHS to report quarterly to all clients on the types of services used, and charges for the services that would be charged against their estates. I have vetoed this section because no funding was provided and it would not be fair to create an expectation for clients that such reports would be issued.

Section 501

Section 501 would permit the Department of Health ("DOH") to develop a plan for a pilot program for accrediting boarding homes through a nationally recognized private accreditation organization. I know of no recognized accreditation organization that provides accreditation for boarding homes, or intends to begin doing so. Since DOH would be unable to develop the plan, I have vetoed this section.

Sections 505 and 506

Sections 505 and 506 deal with the nursing home Resident Protection Program operated by DSHS that is part of the Medicaid and Medicare Survey and Certification program. These provisions would require DSHS to refer complaints against licensed, certified or registered health care providers to the appropriate disciplining authority, such as the Nursing Commission or the Medical Quality Assurance Commission, to pursue disciplinary proceedings according to federal timelines and requirements.

DSHS has been operating since September 1995 under a corrective action plan with the Health Care Financing Administration ("HCFA") because of the failure of a previous program that was much like the proposal in Sections 505 and 506. That previous program was deemed out of compliance with federal requirements. HCFA would have to approve the changes made to the program by this legislation and has indicated concern about returning to the old system. These sections would not result in improved services to the residents in nursing homes, would require inefficient and duplicative systems, and would be more costly than current service delivery.

DSHS and DOH are working together to design a system that enhances the opportunity for swift processing and fair adjudication of complaints of abuse, neglect and misappropriation of resident property. I support this effort and believe it will bring about a more coherent system. For the above reasons, I have vetoed sections 505 and 506.

Section 530

I have vetoed subsections one and three of Section 530, which are repealers. Subsection 1 repeals the statutory authority for

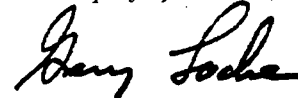
respite care, a valued community care option. Subsection 3 repeals the legislative policy framework that promotes expansion and continuous improvement of home and community services. This is an important part of the overall strategy to provide choices to clients needing long-term care services, and should remain in place.

For these reasons, I have vetoed sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3) of Engrossed Second Substitute House Bill No. 1850.

Sections 213 and 214 of E2SHB 1850 provide for more vigorous inspection of boarding homes and more stringent enforcement once violations are identified. I strongly support these measures to protect the health and safety of boarding home residents. DOH has been authorized in the budget to raise fees to implement this expanded program, and there will need to be expanded appropriation authority in the supplemental budget. I am directing DOH to submit an implementation plan no later than July 1, 1997, outlining how it will phase in the expanded program.

With the exception of sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3), Engrossed Second Substitute House Bill No. 1850 is approved.

Respectfully submitted,



Gary Locke  
Governor

SHB 1865

C 267 L 97

Allowing school districts to contract with other public and private entities.

By House Committee on Education (originally sponsored by Representatives B. Thomas, Johnson, Talcott, Thompson, Radcliff, Mulliken, Hickel, Backlund, Zellinsky and McDonald).

House Committee on Education  
Senate Committee on Commerce & Labor

**Background:** A school district is a corporate body and possesses all the usual powers of a public corporation. A school district may sue and be sued, transact business necessary for maintaining the school district and schools, protect the rights of the district, and enter into other obligations authorized by law.

The board of directors of each school district has broad discretionary power to establish and implement written policies not in conflict with other laws.

A variety of statutes permit school districts to contract for various goods or services. There is not a general statute that grants school districts the general authority to contract.

If a school district enters into a contract for services that had previously been performed by classified school employees, the contract must contain a specific clause providing for health care benefits for the contracting entity's employees. The school district must also conduct a feasibility study regarding the impact of entering into con-

tracts for services, obtain the Superintendent of Public Instructions's approval, and comply with existing collective bargaining agreements. These requirements apply to contracts for services being performed by classified staff "as of" July 26, 1993.

**Summary:** The board of directors of a school district may contract with other school districts, educational service districts, public or private organizations, agencies, schools, or individuals to implement the board's powers and duties. The board may contract for goods and services, including but not limited to goods and services as specifically authorized in statute or rule, as well as other educational, instructional, and specialized services.

Contracts may not be made with religious or sectarian organizations or schools if the contract would violate the state or federal constitutions.

When a school contracts for educational or specialized services, the purpose of the contract must be to improve student learning.

A technical correction is made to clarify that the statute governing contracting for services performed by classified staff "as of" July 25, 1993, is meant to apply to contracts for services performed by classified staff on or after July 25, 1993.

**Votes on Final Passage:**

House	96	0	
Senate	40	2	(Senate amended)
House	60	32	(House concurred)

**Effective:** July 27, 1997

## **E2SHB 1866**

### **PARTIAL VETO**

C 381 L 97

Allowing for the creation of environmental excellence program agreements.

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Linville, Lisk, Delvin and Schoesler).

House Committee on Agriculture & Ecology

House Committee on Appropriations

Senate Committee on Agriculture & Environment

Senate Committee on Ways & Means

**Background:** Project XL is a federal initiative designed to provide regulated entities with flexibility in meeting environmental requirements while reducing pollution at the same time. A project submitted for approval must be technically and administratively feasible; the proponents must have the financial capability to carry it out, and the project must have stakeholder support.

Project XL agreements have been put into place in Georgia, Florida, and Arizona. No such agreements have been adopted in Washington.

**Summary: Authority for Environmental Agreements.**

The director of a state, regional, or local agency may enter into an environmental excellence program agreement (environmental agreement) with any person regulated under the environmental laws of the state if doing so will achieve more effective or efficient environmental results. More effective environmental results are defined as results that are better overall than those that would be achieved under the legal requirements superseded or replaced by the environmental agreement. More efficient environmental results are defined as results that are achieved at reduced cost but do not decrease the overall environmental results achieved by the participating facility.

An environmental agreement may not authorize (1) the release of water pollutants that will cause numeric surface water or ground water quality criteria or numeric sediment criteria to be exceeded at points of compliance in the ambient environment established pursuant to law, when the numeric criteria have been adopted as rules, (2) the emission of air contaminants that will cause any air quality standard to be exceeded, or (3) a decrease in the overall environmental results achieved by the facility compared with results achieved over a representative period of time by the facility before the date on which the environmental agreement is proposed. An environmental agreement may authorize reasonable increases in pollutants as a result of increased facility production or facility expansion and modification.

A director may enter into an environmental agreement only to the extent the agency has jurisdiction to administer the environmental laws either directly or indirectly through the adoption of rules. No environmental agreement may apply to remedial actions taken under the state Model Toxics Control Act or the federal Comprehensive Environmental Response, Compensation and Liability Act. "Environmental laws" mean the chapters of law regulating clean air, solid waste management, hazardous waste management, hydraulic permits, water pollution control, air and water pollution disclosure, drinking water, wastewater treatment, the Shorelines Management Act, dairy waste management, the Puget Sound water quality protection, and other responsibilities assigned to the Department of Ecology (DOE).

When a sponsor proposes an environmental agreement that would affect the jurisdiction of more than one agency, a coordinating agency must take the lead in developing the environmental agreement with the sponsor and other agencies with jurisdiction. The environmental agreement must be signed by the directors of all the agencies administering legal requirements affected by the environmental agreement. The coordinating agency is the agency with the primary regulatory responsibility for the environmental agreement. If multiple agencies have jurisdiction to administer state environmental laws affected by the environmental agreement, the DOE either acts as or designates the coordinating agency.

**Environmental Agreement Proposals.** An environmental agreement may be proposed by anyone owning or operating a facility subject to regulation under environmental laws. A trade association or other authorized representatives of owners or operators of such facilities may propose a programmatic environmental agreement for multiple facilities. A proposal for an environmental agreement must include information on (1) how the proposal is consistent with the purposes of the environmental excellence program and project approval criteria; (2) an environmental checklist to inform the public of the probable impacts and benefits expected; (3) a draft environmental agreement; (4) a description of the stakeholder process; and (5) preliminary identification of permit amendments or modifications that are needed to implement the environmental agreement. If the proposal is site-specific, the proposal must contain a comprehensive description of the proposed environmental project that includes the nature of the facility and operation that will be affected, how the facility or operations will achieve the desired results, and the nature of the results anticipated. If it is a programmatic proposal, the sponsor must provide a comprehensive description of the facilities and operations that are expected to participate, how the participating facilities and operations will achieve the desired results more effectively or efficiently, the nature of the results anticipated, and the method to identify and document individual participants.

The proposal for an environmental agreement must include a plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review in the development, consideration, and implementation of the environmental agreement. The plan must include notice to the employees of the facility and public notice in the vicinity of the facility. Notice must also be provided to the federal agency responsible for administering a program under which the legal requirements will be affected. The coordinating agency must identify any other provisions for the stakeholder process deemed appropriate by the director. The coordinating agency must invite participation from a broad and representative sample of the public likely to be affected by the environmental agreement and select the participants in the stakeholder process. The stakeholder process must also include access to the information relied upon by the agency directors in approving the agreement.

**Environmental Agreement Contents.** The environmental agreement must contain: (1) an identification of all legal requirements that are superceded or replaced by the agreement; (2) a description of any enforceable legal requirements and how they differ from existing legal requirements; (3) a description of any voluntary goals for the project; (4) a statement describing how the environmental agreement will achieve the purposes of this legislation; (5) an implementation schedule; (6) a statement that the environmental agreement will not increase

overall worker safety risks or impose unjust or disproportionate environmental risks among diverse economic and cultural communities; (7) a summary of the stakeholder process that was followed in the development of the agreement; (8) a description of the methods that will be used by the participating facility to measure and demonstrate compliance with the agreement; (9) a description of and plan for public participation in the implementation of the environmental agreement, and for public access to information needed to assess the benefits of the environmental agreement and the sponsor's compliance with the environmental agreement; (10) a schedule of periodic performance review by the directors who signed the agreement; (11) provisions for voluntary and involuntary termination of the environmental agreement; (12) the duration of the environmental agreement and provisions for its renewal; (13) statements approving the agreement by the sponsor and by or on behalf of the directors of agencies affected by the agreement; (14) additional terms as requested by the directors that are consistent with this legislation; (15) draft permits or permit modifications; and (16) if it is a programmatic agreement, the method to identify and document specific commitments made by individual facilities.

**Public Notice and Comment.** Before an environmental agreement is entered into or modified, the coordinating agency must provide at least 30 days for public comment. Before the start of the comment period, the coordinating agency must prepare a proposed agreement, public notice, and fact sheet. The fact sheet must briefly describe the principal facts and the significant factual, legal, methodological, and policy questions considered by the directors signing the agreement, the directors' proposed decisions, and a description of how the proposed action meets the requirements for environmental excellence. The coordinating agency may extend the 30-day comment period.

The coordinating agency also publish notice of the proposed environmental agreement in a newspaper of general circulation in the vicinity of the facility covered by the proposed environmental agreement. Notice must also be published in the Washington State Register. The notice must describe the environmental agreement, the facilities to be covered, summarize the changes in legal requirements, summarize the reasons for approving the agreement, identify an agency person available for additional information, state that the proposed agreement and fact sheet are available upon request, and announce that the public has an opportunity to comment during the comment period. If the written comments during the comment period demonstrate considerable public interest in the project, the coordinating agency must order a public informational hearing or a public hearing to receive oral comments. The coordinating agency must prepare and make available a responsiveness summary indicating the agencies' actions taken in response to comments and the reasons for those actions.

A federal agency with responsibility for administering a program affected by the environmental agreement must be given a copy of the environmental agreement and a copy of the notice by the coordinating agency at least 30 days before entering into or modifying an environmental agreement. The federal agency must be given an opportunity to object to terms or modifications to the agreement affecting legal requirements. No environmental agreement may be signed by a director of an agency if the agreement contains terms affecting legal requirements pertaining to a federal regulatory program that are objected to by the federal agency. The coordinating agency must provide similar notice and opportunity to object to state agencies if an environmental agreement by a local or regional agency contains terms subject to review or appeal by a state agency.

**Enforcement and Appeals of Environmental Agreements.** Legal requirements under existing environmental laws may be superceded in accordance with the terms of an environmental agreement. Legal provisions in permits that are affected by the environmental agreement are to be revised to conform with the provisions of the environmental agreement. Other permit provisions remain in effect. Permit revisions must be completed within 120 days of the effective date of the agreement in accordance with applicable procedural requirements. Legal requirements contained in a permit are in effect and enforceable until the permit revisions are completed. A programmatic environmental agreement becomes effective for an individual facility when the owner or operator provides a satisfactory commitment to the director or directors entering into the programmatic agreement to comply with the environmental agreement. A programmatic agreement may not take effect until notice and an opportunity to comment on the individual facility has been provided.

An environmental agreement may be terminated in whole or in part by written notice from the director with respect to a legal requirement administered by that agency if: (1) after notice and a reasonable opportunity to cure, the covered facility is in violation of a material requirement of the agreement; (2) the facility has repeatedly violated any requirements of the agreement; (3) the operation of the facility under the agreement has caused endangerment to public health or the environment that cannot be remedied by modification of the agreement; or (4) the facility has failed to make substantial progress in achieving goals that are material to the agreement. The notice must specify the extent to which the environmental agreement is terminated, the legal and factual basis for the termination, and a description of the opportunity for judicial review of the decision to terminate the agreement. If the director terminates less than the entire environmental agreement, the covered facility may elect to terminate the entire agreement.

A decision by a director to approve, terminate, or modify an environmental agreement may be appealed to

superior court. A decision by a director is entitled to substantial deference by the court.

After a decision to terminate an environmental agreement is no longer subject to judicial review, the sponsor of the project has 60 days to apply for any permit or approval affected by the termination. The director may establish interim requirements in the notice of termination that are no less stringent than the legal requirements that would apply to the facility in the absence of the agreement, as well as a schedule for meeting the interim requirements if the facility was unable to meet the legal requirements of the agreement or caused an imminent danger to public health.

After an environmental agreement has been terminated, the terms of the environmental agreement remain in effect until a final permit or approval is issued. If the sponsor fails to submit a timely completed application, any affected permit or approval may be modified at any time that is consistent with the law.

The authority of the attorney general or prosecuting attorneys to initiate suits for violations of applicable legal requirements is unaffected, except no action may be initiated for any legal requirement superceded by the environmental agreement. No action may be initiated for failure to meet voluntary goals that were set forth in the environmental agreement. The ability to bring a citizen suit is unaffected, but no new authority to bring a citizen suit is created.

**Funding and Assessment of Environmental Agreements.** Environmental agreements may contain reduced fee schedules with respect to a program applicable to the covered facilities. A decision to approve an environmental agreement is not subject to the State Environmental Policy Act. The consideration of a proposed environmental agreement will integrate an assessment of environmental impacts. State, regional, and local agencies administering environmental laws may adopt rules or ordinances to implement the environmental excellence program agreement program.

The director of the DOE must appoint an advisory committee to review the effectiveness of the environmental excellence agreement program and make recommendations concerning the program to the Legislature. The advisory committee consists of two state agency representatives, two representatives of the regulated community, and two representatives of environmental organizations or other public interest groups. The advisory committee must submit a report to the Legislature by October 31, 2001. Staff support for the advisory committee is provided by the DOE.

A director does not have authority to enter into new environmental agreements after June 30, 2002. Environmental agreements entered into before June 30, 2002, remain in force and are subject to statutory provisions.

State, local, and regional agencies may assess a fee to cover the costs of processing environmental agreement proposals. The fee may be graduated to account for different size sponsors. Sponsors may voluntarily contribute

## E2SHB 1866

funds to administer the program. The fees and contributions provided by environmental sponsors must be deposited into the environmental excellence account. Moneys in the account may only be spent after appropriation.

### Votes on Final Passage:

House	69	29	
Senate	30	15	(Senate amended)
House	84	14	(House concurred)

Effective: July 27, 1997

**Partial Veto Summary:** The Governor vetoed sections of the bill that exempted environmental agreements from the State Environmental Policy Act, provided criteria for the termination of environmental agreements as well as interim requirements that must be met following a termination, and authorized water quality criteria to be superseded by environmental agreements.

### VETO MESSAGE ON HB 1866-S2

May 15, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 11, 15, and 31, Engrossed Second Substitute House Bill No. 1866 entitled:

"AN ACT Relating to the establishment of voluntary programs creating environmental excellence program agreements;"

Since I assumed office, I have emphasized the importance of effective and efficient government. The two Executive Orders that I have signed dealt with improving government service by working smarter and finding ways to reduce costs.

One element of better performance is a willingness to be innovative and creative in the pursuit of objectives. Engrossed Second Substitute House Bill No. 1866 reflects just such an approach. It promotes a more efficient and results-oriented regulatory system for state, local and regional agencies that administer a host of environmental and resource protection laws. The bill allows agencies - after careful consultation with all affected stakeholders - to sign agreements with those they regulate that contain conditions different from those that would be imposed under existing statutes.

I am well aware that there is concern about this legislation and that it is perceived to hold the potential for our losing ground in our decades-long effort to protect Washington's precious environment. However, I think there is substantial merit in this bill as adopted by the 1997 Legislature. I am well aware of the tremendous effort that went into amending it throughout the session to accommodate many of the concerns expressed about the early versions.

At the same time as I act on this bill, I am charging the director of the Department of Ecology with the difficult task of rebuilding some of the trust that may have been lost during the course of the debate over House Bill No. 1866. I have tremendous confidence in his ability to bring together parties with strongly felt opposing views, and seek common ground. I have asked the Director and his staff to initiate a process of developing guidance for implementation of the Environmental Excellence Program - guidance that can fill some gaps in the legislation and help create confidence that the bill will not become a path toward lower standards of resource protection.

While I have signed the majority of Engrossed Second Substitute House Bill No. 1866, there are three provisions that necessitate a veto. These are sections 11, 15, and 31.

Section 11 addresses termination of Environmental Excellence Program Agreements. It specifies that one of the bases for such termination decisions is that "the operation of the facility under the agreement has caused endangerment to public health or the environment that cannot be remedied by modification of the agreement...." It then goes on to state that if an Agreement is terminated, the regulatory agency can impose interim requirements no less stringent than those which would apply in the absence of an agreement. However, the facility is not obligated to comply with these interim requirements until they have exhausted all judicial review.

This is simply unacceptable. If the operation of a facility is endangering the public health or our environment, it cannot be allowed to continue unchecked while an agency tries to modify the agreement to remedy the problem, terminates the agreement and responds to possibly years of legal challenges. A provision must be made for imposing alternate regulatory requirements on a much shorter timetable than specified in section 11. This is one of the issues I have asked Director Fitzsimmons to explore in developing guidance for this program.

Section 15 exempts Environmental Excellence Program Agreements from the State Environmental Policy Act. SEPA allows the public and decision-makers to become aware of the environmental consequences of their decisions and to look at alternate ways of achieving the same objective. If Agreements under this statute are to achieve equal or better environmental performance, nothing that would be revealed through the SEPA process should hamper completion of an agreement. The added opportunity for public consultation should assuage some of the fears expressed that agencies and project sponsors will reach decisions without adequate consideration of the concerns of neighbors, employees, or citizen groups.

Section 31 amends the 1971 Water Resources Act. For 26 years, Washington has had one of the strongest laws in the nation to prevent degradation of our water quality. Under this law, no discharges into state waters are allowed if they would reduce existing water quality. This seems a minimal standard to impose on any waste discharger. But section 31 would allow an Environmental Excellence Program Agreement to supersede this requirement. This is unacceptable and unnecessary in light of section 3 of the bill. Under that section, every agreement to be signed must produce results equal to or better than what would be produced under current standards and requirements. Thus, no agreement could ever arise that would result in a degradation of the state's water quality. For this reason, I have vetoed section 31.

I have today sent a letter to the Director of the Department of Ecology spelling out the issues and approach to be used in developing guidance for implementing Engrossed Second Substitute House Bill No. 1866. This should address many of the concerns that have been raised by opponents of the bill without undermining its objectives.

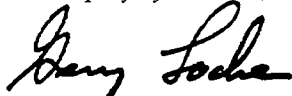
I emphasize to all those who have been involved with this legislation that it is a 5-year trial. No new agreements can be made after July 2002 unless the Legislature extends the program. Thus we have a window of opportunity to change the way we do business and to demonstrate that new ways are not necessarily worse than the old ways. I urge those on all sides to keep in mind a shared objective of environmental excellence for all of Washington's citizens in a healthy economic climate where business and government operate with the greatest possible efficiency.

For these reasons, I have vetoed sections 11, 15, and 31 of Engrossed Second Substitute House Bill No. 1866.



*With the exception of sections 11, 15, and 31, I am approving  
Engrossed Second Substitute House Bill No. 1866.*

*Respectfully submitted,*



*Gary Locke  
Governor*

## SHB 1875

C 297 L 97

Updating terminology in chapter 18.108 RCW.

By House Committee on Health Care (originally sponsored by Representatives Skinner, Carlson, Radcliff, Cody, Murray, Hatfield and O'Brien).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** Massage involves the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes massage and other specified massage techniques.

It is not clear whether massage includes the practice of somatic education. Somatic education practitioners employ non-intrusive touch to relax chronic muscular tension and increase physical and emotional awareness. It may include fitness training, movement to improve cognitive and physical abilities, and other body work affecting posture, alignment and body integrity. Some forms of somatic education are trademarked and include training through specialized education programs and completion of classroom hours as a prerequisite for obtaining trademark status.

The Department of Health (DOH) and state Board of Massage considered the question of whether persons engaged in the practice of somatic education are required to be licensed under the Massage Practice Act. An attorney general's opinion advised the department that somatic education does not constitute massage as defined by law.

The Legislature referred the question for study under the Sunrise Review Act to the Board of Health and the department. The Board of Health found that the practice of somatic education does not need to be regulated as there was no demonstrable evidence of public harm or potential harm occasioned by the practice. On the other hand, the department recommended that the profession be certified under its own title. Both the state Board of Massage and the department found, however, that somatic education did not constitute massage and recommended its exemption from the massage practice act.

**Summary:** Massage therapy involves massage for educational as well as therapeutic purposes. Specified massage techniques no longer include effleurage, petrissage, tapotement, vibration, or nerve strokes. In addition, genital manipulation is excluded. Massage includes the massage

techniques of gliding, kneading, shaking, and facial or connective tissue stretching.

The practice of somatic education, as determined by the secretary of the Department of Health, is exempted from licensure under the massage practice act. The department must monitor the exemption of the practice of somatic education for any effects on the public health and safety, and report to the Legislature by December 1, 1999, with any findings and recommendations.

### Votes on Final Passage:

House	97	0	
Senate	42	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 27, 1997

## SHB 1887

### PARTIAL VETO

C 107 L 97

Establishing department of labor and industries WISHA advisory committee.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Conway, Clements, Honeyford, Cole and O'Brien).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Washington Industrial Safety and Health Act (WISHA) applies to most workplaces in Washington, including private and public workplaces. The WISHA is administered and enforced by the Department of Labor and Industries, which adopts rules governing safety and health standards for workplaces covered under the act. Under the federal Occupational Safety and Health Act (OSHA), Washington is authorized to assume responsibility for occupational safety and health (the "state plan state" concept). The state's industrial safety and health standards must be at least as effective as those adopted under the OSHA for the state to maintain its status as a state plan state.

Under the WISHA, an employer must comply with the safety and health rules adopted by the department, and is obligated to furnish all employees a workplace that is free from recognized hazards that cause, or are likely to cause, serious injury or death to employees. This general duty to keep workplaces free from serious recognized hazards is referred to as the "safe work place" requirement. The safe work place requirement applies even if the department has not adopted a specific rule to cover the particular facts of the violation.

The WISHA directs the Department of Labor and Industries to issue a citation, and assess a penalty against a covered employer for violations of the act, the rules adopted under the act, or the conditions of an order granting a variance.

## SHB 1888

**Summary:** A 10-member WISHA advisory committee is established. The committee is composed of: (1) four members representing employees; (2) four members representing employers; and (3) two ex officio members, one of whom is required to be the chair of the Board of Industrial Insurance Appeals, and the other a representative of the Department of Labor and Industries. The chair of the committee is the department's representative. The members are appointed by the director of the department and serve three-year staggered terms.

The committee's duties are to provide comment on rule making, policies, and initiatives to the department, and to conduct a continuing study of any aspect of the state's industrial safety and health program. The committee is to report its findings to the department or the Board of Industrial Insurance Appeals.

### Votes on Final Passage:

House	94	0
Senate	46	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed section 2, the emergency clause, which provides that the bill takes effect July 1, 1997.

### VETO MESSAGE ON HB 1887-S

April 21, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1887 entitled:

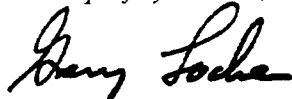
"AN ACT Relating to establishing the department of labor and industries WISHA advisory committee;"

This legislation includes an emergency clause in section 2. Although the creation of the WISHA advisory committee is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 2 of Substitute House Bill No. 1887.

With the exception of section 2, Substitute House Bill No. 1887 is approved.

Respectfully submitted,



Gary Locke  
Governor

## SHB 1888 FULL VETO

Creating the executive-legislative task force on international trade.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Van Luven, Voloria, Dunn, McDonald, Alexander,

Ballasiotes, Sheldon, Morris, Mason, Kastama, Wensman, Wolfe, Doumit, Hatfield, Thompson, Butler, Chandler, Kessler, Dickerson, Constantine, Ogden, Conway, Costa, Cole and O'Brien).

House Committee on Trade & Economic Development  
Senate Committee on Commerce & Labor

**Background:** International trade is an important element in Washington's economy. Washington's international business relationships are based on two-way trade, investment, education, and tourism. It is estimated that one in five jobs in Washington are related to international trade.

Washington's international trade programs are administered by the Department of Community, Trade and Economic Development and the Department of Agriculture. These state agencies administer programs that focus on improving the competitive position of key industries and firms in the domestic and international marketplace. This is accomplished by linking the efforts of trade and industry specialists, providing technical staff to assist Washington's small- and medium-sized firms develop and expand markets for their products, and maintaining information on potential international trade opportunities through the state's foreign trade offices.

**Summary:** Two separate task forces are created to address issues regarding international trade and tourism promotion and development.

**Executive-Legislative Task Force on International Trade.** The Executive-Legislative Task Force on International Trade is created. The task force consists of 23 members with representation from public and private sector businesses and organizations involved in international and domestic trade. The task force members include (1) the Governor; (2) six members of the Legislature, three from the House of Representatives, including the chair of the House Committee on Trade and Economic Development, and three from the Senate; (3) the secretary of state; (4) four representatives from businesses involved in international trade; (5) two representatives of organized labor; (6) two representatives from public ports; (7) two representatives from local economic development organizations; (8) two representatives from cities with a population of at least 175,000 and that have a public port; and (9) one representative at large. The two ex officio members of the task force are the directors of the Department of Community, Trade, and Economic Development and the Department of Agriculture. The Governor appoints the non-legislative members of the task force. The Governor serves as chair of the task force and the chair of the House Committee on Trade and Economic Development and a member from the Senate serve as the vice chairs of the task force.

The task force is authorized to (1) review existing state programs and incentives designed to encourage trade opportunities; (2) review the state's organizational structure for trade-related functions; (3) review trade promotion programs, organizational structure, and efforts in other

states and countries; (4) make recommendations on the state's trade related functions, including the state's role in promoting trade and the appropriate organizational structure of the state's trade programs and incentives; and (5) prepare and submit a report to the Governor and appropriate legislative committees with its findings and recommendations by January 30, 1998. The task force expires March 1, 1998.

The Office of the Governor and the Legislature must provide administrative and clerical assistance to the task force.

Task Force to the Legislature on Tourism Promotion and Marketing. The Task Force to the Legislature on Tourism Promotion and Marketing is created to study tourism promotion and issues related to the establishment of a private commission to market Washington state and its tourism advantage. The task force consists of 16 members: (1) four members of the Legislature, two from the House of Representatives, and two from the Senate; (2) nine members that represent private sector organizations in the travel and tourism industry; and (3) three ex officio members from state agencies involved in tourism promotion.

The Governor must appoint the private sector members based on recommendations from statewide private sector organizations. The speaker of the House appoints the members from the House of Representatives and the Lieutenant Governor appoints the members from the Senate. The ex officio members consist of the director of Tourism Development Division of the Department of Community, Trade, and Economic Development, the director of the State Parks and Recreation Commission, and a representative of the Office of the Attorney General.

The task force is authorized to study tourism promotion and related issues. The report must include: (1) an evaluation of existing state laws, policies, and programs that promote or affect state tourism marketing; (2) an analysis of the level of state interdepartmental cooperation needed for tourism promotion; (3) a determination of the economic impact of an aggressive statewide tourism marketing program; (4) the development of a legislatively established private statewide tourism commission; (5) a proposal for private sector funding of the statewide tourism commission; (6) the statewide commission's procedure to develop a marketing plan; and (7) all recommendations on the appropriate roles and responsibilities of the public and private sectors, including the interrelationship between the state tourism development division and the proposed statewide commission. The task force must prepare and submit a written report outlining its findings and recommendations to the Legislature by January 31, 1998. The task force expires June 30, 1998.

The Department of Community, Trade, and Economic Development must provide necessary staff support to the task force.

#### Votes on Final Passage:

House	95	0	
Senate	46	1	(Senate amended)
House	98	0	(House concurred)

#### VETO MESSAGE ON HB 1888-S

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1888 entitled:

"AN ACT Relating to the executive-legislative task forces on international trade and tourism promotion and development."

This legislation would establish an Executive-Legislative Task Force on International Trade and the Task Force to the Legislature on Tourism Promotion and Marketing.

The size and scope of these studies, without direct appropriation, would be difficult, if not impossible, for the Department of Community, Trade and Economic Development (CTED) to properly undertake. The bill would duplicate efforts already underway by the Department as noted below. Therefore, it is not practical to implement this legislation as written.

Both trade and tourism have and will be key components of Washington's unique international economy. In 1994 two-way trade contributed \$75.4 billion to our economy. Exports of Washington products contributed over \$32 billion to that total and recent estimates suggest one in every four Washington jobs is trade-related. Tourism is an \$8.8 billion industry that employs 125,000 people, and pays over \$1 billion in direct wages.

In passing Substitute House Bill No. 1888 the Legislature correctly reaffirmed the importance of these key sectors to our state's economic future. It is important to make certain that the trade and tourism goals of this legislation are attained. I am, therefore, directing CTED to take the actions described below.

At my request, CTED has already initiated an assessment of the state's trade and economic development responsibilities and services. In order to make certain that all the objectives of SHB 1888 can be attained, the assessment will be expanded to include a tourism focus. As a result of this effort, the Department will be presenting specific recommendations later this year.

CTED is directed to work closely with the Legislature and to make certain the relevant issues are considered and addressed. To help assure effective communications between CTED and legislative trade leaders, I am also asking Senator Schow and Representative Van Luven to bring other key legislators to the assessment process.

The primary goal of the proposed tourism task force was to "prepare a proposal for the establishment of a private commission to market Washington State as a travel destination." I believe that by incorporating tourism into the larger CTED assessment, a broad based and well-balanced plan to fund tourism marketing and its role in economic development will be achieved.

As with trade, this tourism initiative will require extensive legislative-executive communication and cooperation. The Tourism Program will work closely with key legislative leaders in developing and presenting the new plan.

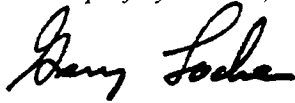
The Legislature is to be commended for the interest in both trade and tourism that it demonstrated by passing SHB 1888. I am confident that the initiatives described above will enable us to achieve the trade and tourism objectives of this legislation in the most timely and cost effective manner practical.

For these reasons, I have vetoed Substitute House Bill No. 1888 in its entirety.

## ESHB 1899

*I am hereby returning, without my approval, Substitute House Bill No. 1888.*

*Respectfully submitted,*



*Gary Locke*  
Governor

### ESHB 1899

C 313 L 97

Providing standards for life insurance policy illustrations.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, L. Thomas, Carrell, Wolfe, Grant and Sullivan).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** Life insurance is regulated through the Office of the Insurance Commissioner. Generally, life insurance provides benefits to a beneficiary upon the death of the insured. There are a variety of life insurance products, including term, whole life, universal life, and other investment or interest sensitive products, endowments, and annuities.

Insurance statutes provide a variety of consumer protection provisions, including standard provisions that life insurance contracts must contain provisions making the contracts incontestible after two years, requirements regarding policy loans, a period for reinstatement of policies, and provisions specifying minimum cash surrender benefits. In addition to regulating life insurance companies, the insurance commissioner has adopted rules regarding life insurance and annuities. These rules address advertising and disclosure requirements, marketing requirements, dissemination of information on purchasing life insurance, and disclosures that must be provided when existing policies are being replaced.

**Summary:** Standards and requirements for life insurance policy illustrations are established. Insurers must notify the insurance commissioner regarding what life insurance policy forms the insurer is using and whether illustrations are used when marketing these products. If illustrations are not being used, the insurer cannot start using illustrations without notifying the insurance commissioner. If illustrations are being used, a basic illustration must be used for most products. An illustration used to sell life insurance must be clearly labeled, contain specified information, avoid using footnotes and caveats, use clear definitions, and comply with other provisions and prohibitions. Basic illustrations must describe the policy, premium outlays, and guaranteed and nonguaranteed benefits, must provide a narrative summary and numeric summary of benefits, and must provide certain disclo-

tures. Supplemental illustrations can be used in conjunction with basic illustrations provided they meet certain requirements. If an illustration is used in the sale of a life insurance policy, the insurer must provide the policyholder an annual update on the status of the policy.

Insurers must appoint one or more illustration actuaries. An actuary must certify that the scale used in illustrations conforms to actuarial standards. A violation of the life insurer policy illustration provisions is an unfair practice.

#### Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House	93	0	(House concurred)

**Effective:** January 1, 1998

### SHB 1903

C 314 L 97

Regulating the registration of contractors.

By House Committee on Commerce & Labor (originally sponsored by Representatives Caimes, Linville, Conway, Honeyford, Hatfield, Clements, Kenney, Blalock, Cody, Cole, Gardner, Cooke and Tokuda).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Department of Labor and Industries administers and enforces the contractor registration statute. Under the statute, general and speciality contractors are required to register with the department. A person wishing to perform construction services must meet certain requirements established by the statute relating to registration, bonding and insurance, and notice to customers. Penalties for violating the statute are established.

**Statement of purpose.** The stated purpose of the contractor registration statute is to protect the public, including firms and corporations furnishing labor, materials, or equipment to a contractor from unreliable, fraudulent, financially irresponsible, or incompetent contractors.

**Definition of a contractor.** A contractor includes any person covered by the definition. There is no definition of an unregistered contractor.

**Substantial compliance.** A contractor may not maintain a suit for monies owed or breach of contract unless he or she is a registered contractor.

For purposes of determining whether a contractor may sue for monies owed or breach of contract, a court may not find a contractor in substantial compliance with the registration requirements unless the department has on file the statutory registration information from the contractor, the contractor has a current bond or other security, and current insurance. The court must take into consideration the length of time the contractor was not validly registered

in determining whether the contractor is in substantial compliance.

**Bond.** A bond of \$6,000 for general contractors, and \$4,000 for speciality contractors must be submitted by applicants for registration or renewal of a registration. The surety on a bond is not liable in an aggregate amount beyond the amount named in the bond nor for any monetary penalty assessed for an infraction. The surety's liability does not cumulate where the bond has been renewed or extended.

**Renewal of registration.** Registration is valid for one year and must be renewed on or before the expiration date.

The department may suspend a registration, after notice, if a final judgment impairs the bond or the bond is canceled, or the contractor's insurance is canceled.

**Contractor advertising.** All advertisements must show a contractor's registered name or address, and current registration number. A contractor's registration number is not required if the contractor's name, address, and telephone number are listed in an alphabetized telephone book or directory. Advertisements on radio and television are not required to show the contractor's registration number if the person who sold the advertisement received the contractor's current registration number from the contractor.

**Infractions.** It is an infraction for a contractor to advertise, offer to do work, submit a bid, or perform work without being registered or when his or her registration is suspended; to transfer a valid registration to an unregistered contractor; or to unlawfully advertise for work. Each day and work site on which a contractor works without being registered, works when his or her registration is suspended, or works under a false registration is a separate infraction.

Infractions are subject to penalties of \$200 to \$3,000.

**Misdemeanors.** It is a misdemeanor for a contractor to advertise, offer to do work, submit a bid, or perform any work without being registered or while his or her registration is suspended; to use a false or expired registration number when purchasing advertising; or to transfer a valid license to an unregistered contractor.

**Mandatory coverage of employment for industrial insurance.** There is an exemption from mandatory coverage under industrial insurance for maintenance, repair, remodeling, or similar work in or about the private home of an employer.

**Summary: Definition of unregistered contractor.** An "unregistered contractor" means a person, firm, or corporation working as a contractor without being registered in compliance with the contractor registration law.

**Substantial compliance.** The Department of Labor and Industries may not apply the doctrine of substantial compliance in the application and construction of the contractor registration law. A person engaged in contractor activities is presumed to know the requirements of the contractor registration law.

**Bond.** The bond must accompany an application for registration and be continuous whether renewed or extended. The bond may be canceled by the surety on written notice to the director. Claims of laborers and subcontractors are added to the priority list of eligible claims against the bond.

**Renewal of registration.** A registration is considered validly renewed on the date the department receives the required fee and proof of bond and insurance, if sent by certified mail or other means requiring proof of delivery. The receipt or proof of delivery is proof of renewed registration until the contractor receives verification from the department.

All fees charged for contractor registration are to be used solely for covering the cost of the registration program.

**Contractor advertising.** The director of the Department of Labor and Industries is authorized to issue a subpoena to a seller of advertisement for the name, address, and telephone number of the person who bought an advertisement. If a seller has the requested information on file, the seller must return the completed form to the department within a reasonable time. A seller's good-faith compliance with the department's request is a complete defense to any civil or criminal action brought against a seller. The subpoena must be issued within 48 hours after the expiration of the issue, publication, or broadcast of the advertisement. The subpoena requirements apply to advertisements by airwave or electronic transmission.

**Infractions and violations.** An unregistered contractor who is issued a notice of infraction is subject to a monetary penalty for every infraction and for each day that he or she works without being registered as provided in the schedule of penalties established by the department. A contractor found to have committed an infraction for failure to register is subject to a fine of \$1,000 to \$5,000. The director may reduce the penalty, but not below \$500, if the person registers within 10 days of the notice of infraction and the offense is a first offense.

Waiver of penalties is limited to waiver in favor of restitution to a consumer.

**Misdemeanor violations.** It is a separate misdemeanor for each day beyond the date of a citation, and for each work site at which a person works, for working without being registered, for working while a person's registration is suspended or revoked, or for working under a registration issued to another person.

**Application for registration as a contractor.** It is lawful for a general contractor to employ an unregistered contractor who was registered at the time he or she contracted with the general contractor, unless the general contractor has been notified by the Department of Labor and Industries that the contractor has become unregistered.

The director of the Department of Labor and Industries must adopt rules establishing a two-year audit and monitoring program for an unregistered contractor who becomes registered after receiving an infraction or conviction.

## HB 1908

tion. The director must inform the departments of Revenue and Employment Security of the infractions or convictions and coordinate with them over payment of taxes or other monies owed to the state.

**Mandatory coverage of employment for industrial insurance.** Persons engaged to do maintenance or repair in or about the private home of an employer are exempt from mandatory coverage under the industrial insurance law. "Maintenance" is defined as the work of keeping in proper condition, and "repair" is defined as restoring to sound condition after damage. "Private home" is defined as a person's place of residence.

**Reporting requirements to the Legislature.** Beginning on December 1, 1997, the department must report annually to the Commerce and Labor Committees of the Senate and House of Representatives, the Ways and Means Committee of the Senate, and the Appropriations Committee of the House of Representatives information on the number of contractors found in violation of the contractor registration law, the number of contractors who were assessed a penalty and the amount of the penalty, the amount of the penalties collected, and the amount of the penalties assessed that was waived.

### Votes on Final Passage:

House	94	0	
Senate	46	1	(Senate amended)
House	93	0	(House concurred)

Effective: July 27, 1997

## HB 1908

C 208 L 97

Establishing a fire fighting technical review committee.

By Representatives Thompson and McMorris.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** The Washington Industrial Safety and Health Act (WISHA) applies to most private and public work places, and is administered and enforced by the Department of Labor and Industries. Washington is a "state plan state" under the federal Occupational Safety and Health Act (OSHA) and as such, is authorized to assume responsibility for occupational safety and health standards in the state. The safety and health standards must be at least as effective as the standards adopted under the OSHA.

The WISHA standards include general safety and health standards that apply to firefighting. The specific standards for firefighting govern all activities related to fire protection services, and require the use of appropriate safety devices and safeguards in all aspects of firefighting, including fire combat scenes and emergency medical or rescue situations.

A covered fire department or fire district employer may be cited, and penalties assessed if the employer violates the WISHA, the rules adopted under the WISHA, an order granting a variance, or a standard published by the National Fire Protection Association.

**Summary:** An eight-member firefighting technical review committee is established. The director of the Department of Labor and Industries appoints the committee members for three-year staggered terms. The composition of the committee is (1) four members representing firefighters, two of whom are members of the law enforcement officers' and firefighters' retirement system; (2) two members representing fire chiefs; and (3) two members representing fire commissioners. The director or designee is an ex officio member and chair of the committee.

The committee provides advisory technical assistance to the department if an inspection or investigation of an emergency response situation reveals a violation of the WISHA or possible noncompliance with an industry consensus standard. After the department issues a citation based on events in an emergency situation, the department has a duty to consult with the committee before issuing a citation that includes a penalty. The committee's recommendations are advisory only and do not limit the department's authority to cite and assess a penalty for violations of the WISHA.

"Emergency response situation" includes situations in which employees of a fire department or fire district are involved in a fire combat scene, a hazardous materials response situation, a rescue, or a response involving emergency medical services.

The committee expires July 1, 2001.

### Votes on Final Passage:

House	95	0	
Senate	40	0	

Effective: July 27, 1997

## HB 1922

C 341 L 97

Granting courts of limited jurisdiction concurrent jurisdiction over certain juvenile offenses.

By Representatives Honeyford, Lisk, Mastin and Cooke.

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background:** The juvenile court is a division of the superior court. Generally, the juvenile court has exclusive original jurisdiction over all matters relating to juveniles, including truancy petitions, dependency hearings, termination of parental rights, and juvenile offenders.

There are a few exceptions to the juvenile court's exclusive jurisdiction over juvenile offenders. The juvenile court may transfer jurisdiction over a juvenile to adult

court after holding a “decline hearing,” and in some cases a juvenile who is 16 or 17 may be automatically transferred to adult court if the juvenile is alleged to have committed certain serious offenses and has a specified criminal history. In addition, a court of limited jurisdiction may have jurisdiction over a 16- or 17-year-old juvenile who is alleged to have committed a traffic, fish, boating, or game offense, or traffic infraction.

**Summary:** A county with a population between 200,000 and 350,000 and located east of the Cascades may authorize a pilot project to allow courts of limited jurisdiction to exercise concurrent jurisdiction with the juvenile court over certain juvenile offenders.

District and municipal courts may exercise concurrent jurisdiction over traffic or civil infractions, truancy petitions, and misdemeanor offenses. Jurisdiction over these juvenile offenses may be exercised only if: (1) the offense, if committed by an adult, would not be punishable by incarceration, or the standard range disposition for the juvenile offender does not include a term of confinement; (2) the court of limited jurisdiction has a computer system that is linked to the juvenile court data system and transmits information relating to cases over which the court has exercised jurisdiction to juvenile court for input into the data system; (3) the county legislative authority authorizes the creation of concurrent jurisdiction; and (4) the court of limited jurisdiction has an agreement with county juvenile detention facilities that the court of limited jurisdiction may order juveniles into the detention facility if a disposition without confinement would be a manifest injustice.

An expiration date of June 30, 2002 is provided for the pilot project.

**Votes on Final Passage:**

House	94	0	
Senate	39	2	(Senate amended)
House	93	0	(House concurred)

**Effective:** July 27, 1997

**HB 1924**

C 340 L 97

Changing the sentencing for sex offenses.

By Representatives Ballasiotes, Sheahan, Dickerson, Radcliff, Sheldon, Chopp, Mason, Conway, Costa, Mitchell, K. Schmidt, Buck, Wensman, Schoesler, Parlette, Hankins, Backlund, Johnson, D. Schmidt, Sterk, Sump, Cooke, Mastin, Scott, O’Brien, Cooper, Hatfield, Blalock, Kessler, Mulliken, Cole, Kenney, Gardner, McMorris and Tokuda.

House Committee on Criminal Justice & Corrections  
 House Committee on Appropriations  
 Senate Committee on Law & Justice  
 Senate Committee on Ways & Means

**Background:** The Sentencing Reform Act governs the sentencing of adult felons. The act bases sentencing on the determination of an offender’s standard sentencing range, which is calculated using the seriousness level of the current offense and the extent of the offender’s criminal history.

**First degree rape.** First degree rape is committed by a person who has sexual intercourse with another person by forcible compulsion, but only if the perpetrator also commits any one of the following acts: (1) using or threatening to use a deadly weapon; (2) kidnaping the victim; (3) inflicting serious physical injury; or (4) feloniously entering a building or vehicle.

First degree rape has a seriousness level of 11, which, for a first-time offender, yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

**Second degree rape.** Second degree rape is committed by a person who has sexual intercourse under any of the following special circumstances: (1) the perpetrator uses forcible compulsion; (2) the victim is physically or mentally incapable of consent; (3) the victim is developmentally disabled and the perpetrator has supervisory authority over the victim; (4) the sexual intercourse occurs during a health care visit where the victim does not consent to the sexual intercourse while knowing it was not for purposes of treatment; or (5) the victim is a resident of a facility for the mentally disordered or the chemically dependent, and the perpetrator has supervisory authority over the victim.

Second degree rape has a seriousness level of 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

**First degree rape of a child.** First degree rape of a child is committed by a person who has sexual intercourse with a child when: (1) the victim is less than 12 years old; (2) the perpetrator is at least two years older than the victim; and (3) the perpetrator is not married to the victim.

First degree rape of a child has a seriousness level of 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

**Second degree rape of a child.** Second degree rape of a child is committed by a person who has sexual intercourse with a child when: (1) the victim is 12 or 13 years old; (2) the perpetrator is at least three years older than the victim; and (3) the perpetrator is not married to the victim.

Second degree rape of a child has a seriousness level of 10, which, for a first-time offender, yields a standard range of 51 to 68 months (a midpoint of five years).

**Indecent liberties.** Indecent liberties is committed when a person knowingly causes sexual contact with another person (other than his or her spouse), but only if any one of the special circumstances applying to second degree

rape are also present (i.e., the presence of forcible compulsion, the victim being developmentally disabled, etc.).

Indecent liberties, when committed with forcible compulsion, has a seriousness level of nine, which, for a first-time offender, yields a standard range of 31 to 41 months (a midpoint of three years).

Indecent liberties, when committed in any manner other than with forcible compulsion, has a seriousness level of seven, which for a first-time offender yields a standard range or 15 to 20 months (a midpoint of 1.5 years).

Most Serious Sex Offenses. Under what is commonly referred to as the "Two Strikes and You're Out" law, a person is considered a "persistent offender" if:

(1) the person has been convicted of any felony considered a most serious sex offense. The list of most serious sex offenses include:

- (a) rape in the first degree;
- (b) rape in the second degree;
- (c) indecent liberties by forcible compulsion;
- (d) murder in the first or second degree, kidnaping in the first or second degree, assault in the first or second degree, or burglary in the first degree when those offenses are committed with sexual motivation; or
- (e) an attempt to commit any of those sex offenses; and

(2) the person has been convicted on at least one prior separate and distinct occasion of any one of the listed sex offenses.

The commission of the offense and the conviction for that offense count as a "strike," and both must occur before the next commission and conviction of an offense can count as another "strike."

Sexual Offender Special Sentencing Alternative (SOSSA). The court determines that a sex offender should receive a sentence under the sexual offender special sentencing alternative and the offender has a sentence of less than eight years of confinement, the court may suspend the sentence and require the offender to participate in the SOSSA program.

Sex offender registration. A sex offender must register with the county sheriff within 24 hours of being released from confinement. The crime of failing to register or notify the county sheriff in a timely fashion is either a class C felony or a gross misdemeanor, depending on the seriousness of the offender's sex offense. The crime is a class C felony if the underlying sex offense was a class A felony, and is a gross misdemeanor for all other sex offenses.

**Summary:** First degree rape. The seriousness level for first degree rape is raised to 12, which for a first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

Second degree rape. The seriousness level for second degree rape is raised to 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

First degree rape of a child. The seriousness level for first degree rape of a child is raised to 12, which for a first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

Second degree rape of a child. The seriousness level for second degree rape of a child is raised to 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Indecent liberties, when committed with forcible compulsion. The seriousness level for indecent liberties, when committed with forcible compulsion, is raised to 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

Most Serious Sex Offenses. Under the "Two Strikes and You're Out" law, the list of "most serious offenses" is expanded to incorporate all convictions for "indecent liberties" offenses. These indecent liberties offenses include acts when committed with forcible compulsion as well as those acts committed in manners other than forcible compulsion that are committed against both children and adults as well as those acts committed during the course of prostitution.

Sexual Offender Special Sentencing Alternative (SOSSA). The court is authorized to sentence a sex offender to a SOSSA program if the offender has received a sentence of less than 11 years of confinement instead of less than eight years of confinement.

Sex offender registration. The crime of failing to register as a sex offender is a class C felony if the underlying sex offense was a felony. If the underlying crime was not a felony sex offense then the failure to register as a sex offender is a gross misdemeanor.

**Votes on Final Passage:**

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House	98	0	(House concurred)

**Effective:** July 27, 1997

**HB 1928**

C 163 L 97

Allowing the housing finance commission to impose covenants running with the land.

By Representatives Skinner, Mason, Van Luven, Radcliff and D. Schmidt; by request of Housing Finance Commission.

House Committee on Trade & Economic Development  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** The Washington State Housing Finance Commission (WSHFC) was created in 1983. The purpose of the WSHFC is to stimulate the production of affordable



single family, multifamily, and special needs housing through the (1) issuance of tax-exempt or taxable nonrevenue bonds; (2) administration of federal Low-Income Housing Tax Credit Program; and (3) administration of other programs authorized under federal and state law.

Financial advantages and incentives are often made available to developers and owners of housing on the condition that certain requirements of applicable federal and state law and the WSHFC policy are met. Typically, these requirements relate to making a percentage of the housing units available to households of a given income level for a certain period of time. These conditions may be enforced by the WSHFC by the filing of regulatory agreements with the title. The WSHFC is not statutorily authorized to impose covenants that run with the land as a means to enforce requirements of the regulatory agreements.

**Summary:** The Washington State Housing Finance Commission (WSHFC) is authorized to impose covenants on housing or other facilities that are financed by the WSHFC or programs administered by the WSHFC. The regulatory covenants that run with the land are used to satisfy and enforce requirements of applicable federal and state laws and WSHFC policy, and are enforceable against any successor owners of the housing or other facilities. The term of the regulatory covenant must be part of the recorded agreement. The WSHFC may impose regulatory covenants on existing as well as future agreements.

**Votes on Final Passage:**

House	76	17
Senate	48	0

**Effective:** July 27, 1997

**SHB 1930**

C 108 L 97

Restricting copying of birth certificates.

By House Committee on Government Administration (originally sponsored by Representatives Chandler, Linville, D. Schmidt and Sheldon).

House Committee on Government Administration  
Senate Committee on Health & Long-Term Care

**Background:** Birth certificates are filed with local registrars. Local registrars transmit the original birth certificates to the Department of Health.

**Summary:** The Department of Health is to adopt rules providing for the release of electronic copies of birth certificates with standards for security and confidentiality. All certified copies of birth certificates must be in a format and on paper with security features to deter alteration without ready detection.

Government agencies may be provided with copies of birth certificates if the copies will be used for official du-

ties and the agencies pay the appropriate fee. The Department of Health may enter into agreements with offices of vital statistics outside of the state for the transmission of birth certificates.

The Department of Health may disclose information which may identify a person named in a birth certificate for certain research purposes.

**Votes on Final Passage:**

House	96	2
Senate	43	1

**Effective:** July 27, 1997

**SHB 1935**

FULL VETO

Permitting development of inherited property.

By House Committee on Government Reform & Land Use (originally sponsored by Representative Reams).

House Committee on Government Reform & Land Use  
Senate Committee on Government Operations

**Background:** In general, when a property owner wishes to divide his or her land, the division of the land must be reviewed by the city, town, or county pursuant to a subdivision or short subdivision ordinance. A division of land into four or fewer lots is considered a short subdivision, but a city or town may allow a parcel to be divided into a maximum of nine lots under its short subdivision ordinance.

The legislative body of a city, town, and county is required to adopt procedures for the summary approval of short subdivisions. Subdivisions that are not short subdivisions must be submitted to the legislative body of the city, town, or county for approval. The proposed subdivision or short subdivision will be approved only after the applicable administrative official makes written findings that the proposed subdivision or short subdivision appropriately provides for the public health, safety, and general welfare.

The approval process for regular subdivisions also requires the filing of a preliminary plat of the proposed subdivision with the legislative body of the city, town, or county. Notice of a public hearing or an administrative review of the preliminary plat must be sent to adjacent landowners and must also be published. Any person may comment on the proposed preliminary plat. The legislative body of the city, town, or county has the sole authority to approve final plats.

Certain property divisions are exempt from the requirements of plats and subdivisions. Among the exceptions are divisions of land made by a last will and testament.

**Summary:** Inherited property that is exempt from platting and subdivision requirements may be developed without regard to zoning provisions relating to minimum lot sizes. The property must be developed for a use

authorized for that particular piece of property under current zoning laws. The lot created must contain sufficient area for a single family residence and on-site sewage disposal, with the lot and disposal system submitted for final approval to the legislative body of the municipality within five years of the lot's creation. The people inheriting the property must be immediate family members of the deceased. The number of parcels into which the property may be divided may equal no more than the number of immediate family members who are inheriting the property, not to exceed ten parcels.

**Votes on Final Passage:**

House	59	36	
Senate	30	19	(Senate amended)
House	62	35	(House concurred)

**VETO MESSAGE ON HB 1935-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1935 entitled:

"AN ACT Relating to the development of inherited property;"

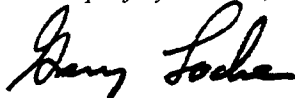
Substitute House Bill No. 1935 would have allowed immediate family members who inherited land to subdivide the property into a number of parcels no greater than the number of descendants who qualify, but in no instance more than ten. This subdivision of property would be permitted regardless of minimum lot sizes or any other zoning restrictions applying to that type of property.

Although I recognize and sympathize with the difficulty sometimes faced by multiple family member inheritors of property, who in some instances cannot subdivide their inherited property among themselves, this bill has the potential of creating vastly more problems than it would resolve. For example, each lot could be put to uses that may only be safe and appropriate for the larger parcel. Subdivisions could greatly exceed densities established under zoning laws that affect surrounding property. Also, due to its lack of clarity, the bill could create many problems for people planning their estates to reduce federal estate taxes.

There is no sound public policy reason to allow such special privileges under SHB 1935.

For these reasons, I have vetoed Substitute House Bill No. 1935 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

Regulating notice of claim liens.

By House Committee on Law & Justice (originally sponsored by Representatives Sterk, Sheahan, Costa, Carrell, Hickel, Radcliff and Quall).

House Committee on Law & Justice  
Senate Committee on Commerce & Labor

**Background:** A real estate broker is a person who: (1) sells, lists, or buys real estate for others; (2) negotiates the purchase, sale, exchange, lease, or rental of real estate; (3) advertises or holds himself or herself out to the public as engaged in the selling, listing, or buying of real estate, or negotiating the purchase, sale, lease, or rental of real estate; or (4) engages, directs, or assists in procuring prospects, or in negotiating or closing any transaction which results in the selling, listing, or buying of real estate.

A real estate broker is required to obtain a state license from the Department of Licensing. To receive a broker's license, an individual must meet certain requirements, including passing the broker's license examination established by the Washington Real Estate Commission and having minimum amounts of experience and training.

The amount of a real estate broker's compensation in a commercial real estate transaction is generally agreed to by the parties and memorialized in a contract or other written instrument. If a party fails or refuses to pay the compensation due to the broker, the broker must seek enforcement of the contract in court.

A lien is a claim or encumbrance against property to secure payment of a debt. There are currently a number of statutory liens, including mechanics' liens, crop liens, and landlords' liens for rent.

**Summary:** A commercial real estate broker's lien is created. Filing and notice requirements and judicial enforcement procedures are established.

A broker has a lien on the property owner's net proceeds from the transfer or conveyance of commercial real estate, or on the net rental proceeds from the lease of commercial real estate, for the amount of commission the owner agreed to pay the broker under a written commission agreement. The lien is only available to the broker named in the commission agreement and is not assignable.

The notice of claim of lien against proceeds must contain specified information, include a copy of the commission agreement, and be signed by the broker. The lien must be recorded at least 30 days before the owner records a deed of conveyance of the property or within 90 days after a tenant takes possession of leased property. The lien becomes effective on the date of the recording.

After a notice of claim of lien is recorded, if a condition occurs that would preclude the broker from receiving compensation under the commission agreement, the bro-

ker must record a written release of the notice of claim of lien within seven days following a demand by the owner.

The broker must deliver a copy of the claim of lien to the owner within 10 days of recording the lien. In the case of a transfer or conveyance of commercial real estate, the broker must deliver a copy of the claim of lien to the escrow closing agent, if known, on or before the date of the recording of the deed of conveyance.

An escrow closing agent is required to pay to the broker the amount of the claim of lien from the owner's net proceeds from the conveyance or transfer of the commercial real estate. The broker must record a satisfaction or release of the claim of lien within five days after payment of the commission amount upon demand by the owner.

The owner of commercial real estate may contest a notice of claim of lien by filing a motion in superior court. If a broker has a claim of lien against rental proceeds from the lease of commercial real estate, the broker may file a motion with the superior court for the payment of the amount of the claim of lien. The prevailing party is entitled to an award of costs and reasonable attorneys' fees.

The owner of the commercial real estate may ask the broker to waive the right to a broker's lien. If the broker waives the right and then has to sue the owner for payment of the commission, the court may impose statutory interest, court costs, and attorneys' fees.

All prior recorded statutory and consensual liens, mortgages, deeds of trust, and other encumbrances have priority over a real estate broker's lien.

"Commercial real estate" is defined as a fee title or possessory interest in real property, except real property that is: (1) improved with one single-family residential unit or one multifamily structure with four or fewer units; (2) unimproved and that may only be developed with a maximum of four residential units; (3) classified as farmland, agricultural land, or timberland; or (4) improved with single-family residential units, such as condominiums or stand-alone houses in a subdivision that may be conveyed on a unit-by-unit basis.

**Votes on Final Passage:**

House	94	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

**Effective:** July 27, 1997

**EHB 1940**  
**PARTIAL VETO**  
**C 229 L 97**

Integrating ignition interlocks into administrative revocation of drivers' licenses.

By Representatives Robertson, Appelwick, Sheahan, Regala, Scott, O'Brien, Ogden, Cooper, Blalock, Costa, Cole, Conway, Cody, Wolfe and Cooke.

House Committee on Law & Justice  
Senate Committee on Law & Justice

**Background: Ignition Interlocks.** Under legislation enacted in 1994, courts have explicit authority to order that ignition interlocks or other devices be installed on the cars of certain drivers. Included among such drivers are those who are convicted of or granted a deferred prosecution on, a charge of drunk driving.

Ignition interlock devices are alcohol analyzing devices designed to prevent a person with alcohol in his or her system from starting a car. Other "biological or technical" devices may be installed for the same purpose. If a court orders the installation of one of these devices, the Department of Licensing (DOL) is to mark the person's driver's license indicating that the person is allowed to operate a car only if it is equipped with such a device.

**DUI Procedures and Penalties.** Various procedures, penalties, and programs may apply in the case of a person arrested for drunk driving (DUI).

***Implied Consent Law Refusals and DUI Prosecutions for Intoxication.*** Under the implied consent law, a person arrested for DUI is required to submit to a test of his or her breath or blood alcohol concentration (BAC). A person who refuses the test is subject to administrative action by the DOL to suspend or revoke his or her driver's license. License suspension or revocation is the only action that may be taken against a driver for a refusal. The license suspension or revocation does not depend on whether the person was intoxicated or had a BAC of any particular level. It depends only on whether the person refused the test.

A BAC test result is not necessary for a criminal prosecution. A person who has refused a BAC test may also be criminally charged with and convicted of DUI if it can be proved that the person was intoxicated. Criminal conviction results in jail time, a fine, and suspension or revocation of a license. A decision not to charge the crime, or a trial that results in an acquittal, however, does not affect an administrative license action based on a refusal to take a BAC test.

***Administrative and Criminal "Per Se" DUI Violations.*** A person who takes the test and shows a BAC above a certain level is subject to DOL administrative action and criminal prosecution solely on the basis of the BAC. Administrative action and criminal prosecution are independent of each other. Either or both may occur following the same incident.

A person with a BAC level above the permissible level has committed a "per se" DUI violation. For a per se violation, neither the DOL in an administrative action, nor the prosecution in a criminal case, need prove that the person was intoxicated. The permissible BAC level for a person 21 years or older is 0.10, and for a person under 21 it is

0.02. (BAC is measured in grams of alcohol per 210 liters of breath or per 100 milliliters of blood.)

*Criminal Penalties and Administrative Actions.* The criminal penalties and the administrative actions resulting from an incident vary depending on several factors. Refusals result in longer administrative loss of driving privileges than do criminal or administrative violations. For instance:

- A first administrative per se violation results only in a probationary license rather than a suspension;
- A first criminal conviction results in suspension for 90 days or 120 days depending on the BAC level, if available, and if not, whether unavailability is due to refusal; and
- A first administrative action for a refusal results in suspension for one year.

The criminal penalties and administrative actions both vary with the number of prior offenses or refusals that the person has. Criminal penalties also vary depending on the level of the BAC. BACs of more than 0.15 result in more jail time, longer loss of driving privileges, and larger fines.

A license suspension or revocation resulting from a criminal DUI conviction runs consecutively with an administrative suspension or revocation for an implied consent refusal.

A person convicted of DUI is also required to undergo an alcohol assessment and may be required to participate in treatment.

*Deferred Prosecution.* A person charged with DUI may also petition the court for a deferred prosecution. The petitioner must stipulate to the sufficiency and admissibility of the evidence against him or her and must waive various procedural rights. The petitioner must also allege that the conduct that led to his or her arrest was the result of alcoholism, drug addiction, or mental problems that are amenable to treatment. If the petition is granted, the court will defer the criminal DUI prosecution on the condition that the person undergo a two-year treatment program. Failure to comply with the terms of a deferral may result in removal of the person from the deferral and reinstatement of the criminal prosecution.

*Occupational Licenses.* A person convicted of a first DUI within five years may be eligible for an “occupational” license. The DOL may grant such a license to a person if, among other things, the person’s employment makes it essential that he or she be able to drive. Various restrictions are placed on the occupational license, such as prescribed hours and routes, with which the driver must comply.

Persons who lose their licenses through administrative action may not apply for an occupational license.

**Summary:** Use of ignition interlock devices is expanded, and various periods of license suspension or revocation are increased for implied consent and DUI violations.

Periods of administrative revocation of a driver’s license for refusing to take a BAC test are increased as follows:

- For a first refusal within five years, from one year to 540 days;
- For a second refusal within five years, from two years to three years; and
- For a third refusal within five years, a new revocation period of four years is created.

Periods of suspension or revocation following a criminal DUI conviction are increased as follows:

- For a first conviction, with a BAC of at least .15, or with no BAC due to refusal, from suspension for 120 days to revocation for one year;
- For a second conviction, with a BAC of less than .10, or with no BAC for reasons other than refusal, from revocation for one year to revocation for two years;
- For a second conviction, with a BAC of at least .15, or with no BAC due to refusal, from revocation for 450 days to revocation for 900 days;
- For a third conviction, with a BAC of less than .15, or with no BAC for reasons other than refusal, from revocation for two years to revocation for three years; and
- For a third conviction, with a BAC of at least .15, or with no BAC due to refusal, from revocation for three years to revocation for four years.

Periods of license suspension are unchanged for per se administrative actions and for first time criminal convictions with a BAC of less than .15 or with no BAC for reasons other than refusal.

Occupational licenses are replaced with “temporary restricted licenses.” Following an initial prescribed period of a license loss resulting from criminal conviction or administrative action, a person may petition the DOL for a temporary restricted license. These prescribed periods range from the first 30 days to the first year of the suspension or revocation. If a petition is granted following the initial period of license loss, the temporary restricted license is good for the remainder of the suspension or revocation, including any periods of consecutive license loss due to administrative and judicial action arising from the same incident.

One of the requirements for a temporary restricted license is that the petitioner, other than a petitioner who was a first-time offender with a BAC of less than .15, must agree to installation of an ignition interlock device on his or her car. The person must also agree to drive no other car for the period of suspension or revocation.

The circumstances under which a temporary restricted license may be used are expanded beyond the employment criteria applicable to occupational licenses. Those new circumstances include the necessity of driving to (1) provide continuing health care to the petitioner or a dependent; (2) pursue education; (3) attend substance abuse

treatment; or (4) fulfill court-ordered community service responsibilities.

Installation of an ignition interlock device is made an alternative to removal from a deferred prosecution when a person has violated some condition of the deferral, if such a device had not already been installed as part of the original deferral.

Driving a car in violation of the license restrictions that accompany installation of an interlock device is made a misdemeanor.

As part of an alcohol assessment ordered following a DUI conviction, the diagnostic agency must make a recommendation to the sentencing court regarding the possible installation of an ignition interlock device.

A sentencing court may order installation of such a device following the expiration of any period of license suspension or revocation and for up to as long as the court has jurisdiction over the offender.

**Votes on Final Passage:**

House	95	0
Senate	44	0

**Effective:** January 1, 1998

**Partial Veto Summary:** The Governor vetoed sections of the bill that allow persons who violate the implied consent law to apply for temporary restricted licenses. These sections also contain all of the provisions relating to temporary restricted licenses, including changing the name, changing eligibility requirements, and expanding the use of occupational restricted licenses generally. Also included in these sections are increases in the penalties for administrative per se violations and implied consent.

**VETO MESSAGE ON HB 1940**

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 3, 4, 5, 6, 7, and 12, Engrossed House Bill No. 1940 entitled:

"AN ACT Relating to driving while under the influence of liquor or drugs;"

Engrossed House Bill No. 1940 expands the use of ignition interlock devices and increases the periods of license suspension or revocation and other penalties for people convicted of driving under the influence of alcohol or drugs (DUI). A number of jurisdictions, including Kitsap County, have found that ignition interlock devices allow DUI offenders to be closely monitored while granted limited driving privileges so that they may keep their jobs.

I strongly support stiff sentences for drunk drivers and increasing the utilization of technology in this way. However, due to an oversight in the drafting of the bill, drivers who refuse to take a blood alcohol concentration test and lose their licenses could apply to get a "temporary restricted" license after only 90 days of suspension. This may encourage drunk drivers to refuse the tests as a way to avoid a DUI conviction, and to also get their driving privileges restored quickly. In order to avoid this problem, I have vetoed sections 3 through 7 of the bill.

I agree with broadening the statutory definition of an "occupational" license to include driving necessary to obtain health care, counseling, education and community service. Unfortu-

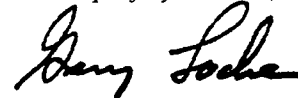
nately, this change in definition could not be retained while vetoing the sections noted above. I would support this expanded definition in subsequent legislation.

Section 12 of the bill provides that chemical dependency diagnostic reports must include a recommendation on whether installation of an ignition interlock would be appropriate for a particular person. This could create liability for the agencies writing the reports, and is a matter more appropriately addressed by the courts.

For these reasons, I have vetoed sections 3 through 7 and section 12 of Engrossed House Bill No. 1940.

With the exception of sections 3, 4, 5, 6, 7, and 12, Engrossed House Bill No. 1940 is approved.

Respectfully submitted,



Gary Locke  
Governor

**HB 1942**

C 64 L 97

Repealing the coal mining code.

By Representatives B. Thomas, Thompson and Dyer.

House Committee on Natural Resources  
House Committee on Energy & Utilities  
Senate Committee on Natural Resources & Parks

**Background:** The state coal mining code was first enacted before the turn of the century; most substantive amendments to it were made during the early 1900s. Many of the provisions deal with health and safety issues surrounding coal mining technology and conditions during the late nineteenth and early twentieth centuries.

In addition, the code primarily addresses the underground mining of coal. No underground coal mines currently operate in Washington. Separate statutes govern surface mining.

The Federal Mine Safety and Health Act of 1977 was originally enacted as the Federal Coal Mine Health and Safety Act of 1969 to provide interim mandatory health and safety standards. Those standards have been superseded by extensive health and safety regulations promulgated by the Secretary of Labor. The federal act and regulations preempt all state laws that fall short of the federal provisions, but do not preempt state laws that either do not conflict with the federal provisions, or that impose more stringent health and safety standards on mining.

**Summary:** The coal mining code is repealed.

**Votes on Final Passage:**

House	97	0
Senate	39	0

**Effective:** July 27, 1997

HB 1945

C 370 L 97

Concerning foreclosed property deeded by a county for use as state forest land.

By Representatives Dunn and Boldt.

House Committee on Natural Resources  
Senate Committee on Natural Resources & Parks

**Background:** The Department of Natural Resources manages forest board transfer lands on behalf of 21 counties. The department may deduct a maximum of 25 percent from the proceeds derived from timber sales and other revenue generating activities on the lands, and may use these moneys for administration, reforestation, and protection of forest lands. The remaining proceeds go to the respective counties and, except for counties with a population of less than 9,000, are distributed to various funds in the same manner that general tax dollars are distributed.

A county with less than 9,000 people must first apply the revenues it receives from its forest board transfer lands towards any indebtedness existing in its current expense fund. According to 1990 U.S. Census data, Wahkiakum County and Skamania County fall under the 9,000-person population threshold, with Skamania County's population close to the threshold.

**Summary:** The county population threshold for the modified distribution of revenues from forest board transfer lands is increased to 16,000 people. Skamania County will continue to apply the revenue it receives from its forest board transfer lands first to any indebtedness existing in its current expense fund.

**Votes on Final Passage:**

House 97 0  
Senate 43 0

**Effective:** July 27, 1997

SHB 1955

C 217 L 97

Regulating real estate brokerage relationships.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Quall, Bush and Hatfield).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** In 1996, the duties owed by real estate agents and brokers to buyers and sellers of real estate were established in statute, and the agency relationships between real estate agents and brokers and their clients were defined and clarified. The law affects those agency relationships entered into after January 1, 1997.

An agent may represent only the buyer or the seller unless otherwise agreed in writing. Absent an agreement, the agent represents the buyer.

Duties of an Agent to the Seller or Buyer and Duties of a Dual Agent. Certain duties apply between a licensee agent and the seller or a licensee agent and the buyer or in a dual agency relationship, including the duty to:

- (1) be loyal by taking no action that would be adverse to the client;
- (2) disclose in a timely manner, any conflicts of interest;
- (3) advise the client to get expert advice on matters relating to the transaction that are beyond the agent's expertise; and
- (4) refrain from disclosing confidential information about the client except under subpoena or court order.

These duties cannot be waived.

It is not a breach of duty to the principal for the licensee agent, in the case of a seller, to show or list competing property or, in the case of a buyer, to show properties to competing buyers.

Duration of the Agency Relationship. The agency relationship begins when the licensee performs brokerage services and continues until the licensee completes the services, the agreed upon period of service is ended, or the parties agree to termination.

Written agreement for compensation. The law establishing agency relationships in real estate transactions does not obligate a buyer or a seller to pay compensation to a real estate licensee unless the parties have entered into a written agreement that sets out the terms of any compensation. Real estate transactions include both real estate sales and leases, and rental of real property.

**Summary:** Certain provisions of the law governing real estate brokerage relationships are clarified.

Duties of an Agent to the Seller or Buyer and Duties of a Dual Agent. Duties owed by the licensee agent to the buyer, seller, or both are clarified as to circumstances that do not breach the duties owed. When a seller's agent shows property not owned by the seller to a prospective buyer or lists competing properties for sale, the seller's agent does not breach the duty of loyalty to the seller or create a conflict of interest. The same duties are not breached when a buyer's agent shows property in which the buyer is interested to other prospective buyers. When a dual agent engages in these activities for a buyer and a seller, these actions do not constitute actions that are adverse or detrimental to the client nor do these actions create a conflict of interest.

When different licensees associated with the same broker represent different sellers in competing transactions involving the same buyer, the duty of loyalty to the sellers is not breached nor does this circumstance create a conflict of interest. These duties are not breached when different licensees associated with the same broker represent different buyers in competing transactions for the

same property. For a dual agent in these circumstances, no conflict of interest occurs nor are these actions considered adverse or detrimental to the clients.

**Duration of the Agency Relationship.** The agency relationship may be terminated by either party upon notice from either party. Termination of the agency relationship does not affect the contractual rights established by the parties.

**Written agreements for compensation.** The law on real estate agency relationships does not negate the requirement elsewhere in law that an agreement authorizing or employing a real estate licensee to purchase or sell real estate for compensation be in writing and signed by the seller or buyer.

These changes to provisions of the law of real estate agency must be part of the required consumer information pamphlet as of January 1, 1998.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** April 25, 1997  
January 1, 1998 (Section 7)

**HB 1959**  
C 4 L 97

Providing business and occupation tax exemptions for wholesale car auctions.

By Representatives Robertson, Grant, Mulliken, Cairnes, Mastin, Ogden, Keiser, Dunn and Cooke.

Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. The B&O tax rate on manufacturing, wholesaling, and extracting is 0.506 percent.

The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Out-of-state companies that bring goods into Washington and sell these goods in Washington are subject to the B&O tax.

**Summary:** A B&O tax exemption is provided for amounts received by motor vehicle manufacturers and their financing subsidiaries from the sale of motor vehicles at wholesale auctions to dealers licensed in this or another state.

**Votes on Final Passage:**

House	98	0
Senate	46	0

**Effective:** March 18, 1997

**E2SHB 1969**

C 218 L 97

Regulating public water systems.

By House Committee on Appropriations (originally sponsored by Representatives Chandler and Regala; by request of Department of Health).

House Committee on Agriculture & Ecology  
House Committee on Appropriations  
Senate Committee on Agriculture & Environment  
Senate Committee on Energy & Utilities

**Background:** Group A water systems are generally required to have a certified operator. The Department of Health (DOH) is required to phase in the requirements for certified operators for public water systems with less than 100 connections to assure that there are enough certified operators available to serve these systems and to give these systems time to obtain a certified operator. Changes in federal law may require all Group A water systems to have certified operators.

The DOH is required to develop and implement a voluntary program to allow public water systems to be waived from the full testing requirements for chemicals under the federal Safe Drinking Water Act (SDWA). There is no authority for the DOH to operate a consolidated source monitoring program.

In 1995, the Legislature created a drinking water assistance account to allow the state to use federal funds that became available under the SDWA. The account is administered by the DOH and the Public Works Board (PWB) and is used to provide funding for water systems to assist them in providing safe drinking water. Money may only be expended from the account by the DOH or the PWB after appropriation. Congress approved funding under the SDWA in 1996.

**Summary:** The Department of Health (DOH) must require all Group A water systems to have a certified operator if it is necessary to conform to federal law, rules, or guidelines.

The DOH is required to implement a program to monitor source water quality on a consolidated statewide basis, rather than by individual water systems, to allow public water systems to be waived from full federal testing requirements for chemicals. The DOH must arrange for the initial sampling and provide for testing and programmatic costs to the extent funding is provided by the Legislature.

Expenditures from the drinking water assistance account may only be made by the DOH, the Public Works Board (PWB), or the Department of Community, Trade and Economic Development (CTED) after appropriation. The money may only be used to assure water systems provide safe drinking water and other activities authorized under federal law. Interest earned on the account, including repayments, remains in the account and may be used for eligible purposes.

## SHB 1975

The DOH and the PWB must establish and maintain a program to use moneys in the drinking water assistance account in accordance with provisions under the federal SDWA. The DOH, the PWB, and the CTED must adopt final joint rules and requirements for providing financial assistance to public water systems in consultation with purveyors and other affected and interested parties by January 1, 1999. Prior to this date, the DOH and the PWB may establish and use guidelines to ensure the quick disbursement of the funds. Any guidelines must be converted to rules by January 1, 1999. After December 31, 1998, any requirements must be established by rule. By December 15, 1997, the DOH and the PWB must report to the Legislature on the status of the program.

Any state agency participating in providing service under the drinking water assistance account must provide cost-effective and timely services. These mechanisms include (1) adopting federal guidelines by reference into rules; (2) using existing management mechanisms rather than creating new ones; (3) investigating the use of service contracts with governmental and nongovernmental service providers; (4) using joint or combined financial assistance applications; and (5) other methods designed to expedite the delivery of service and financial assistance.

The DOH shall determine assistance priorities and oversee activities related to the assistance other than financial administration.

After consulting with interested parties, the DOH, the PWB, and the CTED must develop a memorandum of understanding setting forth the duties of each.

The PWB and the DOH must begin making disbursements of funds from the drinking water assistance account no later than October 1, 1997.

### Votes on Final Passage:

House	95	0
Senate	46	0

Effective: April 25, 1997

## SHB 1975

### PARTIAL VETO

C 230 L 97

Regulating public ownership of coal-fired thermal electric generating facilities.

By House Committee on Energy & Utilities (originally sponsored by Representatives DeBolt, Morris, Benson and Sullivan).

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** Current statutes authorize cities of the first class, public utility districts (PUDs), and joint operating agencies (JOAs) to enter into agreements to own shares in jointly held high voltage transmission facilities, capacity rights in those facilities, and in any kind of electric gener-

ating plants and facilities. The agreements may include related common facilities, and the planning, financing, acquisition, construction, operation, and maintenance of the plants and facilities. The agreements must give a city, PUD, or JOA a percentage ownership of any common facility, and of the electrical output, equal to the percentage of the money furnished, or the value of property supplied, by the city, PUD, or JOA, to acquire or construct the facility.

Cities are explicitly authorized to participate in agreements for the use of, as well as an undivided ownership of, such plants and facilities with: (1) each other; (2) rural electric cooperatives in any state; (3) municipal corporations, utility districts, or other political subdivisions in any state; (4) any agency of the United States authorized to generate or transmit electricity; and (5) investor-owned utilities (IOUs) under the jurisdiction of the regulatory commission of any state.

Public utility districts and JOAs are explicitly authorized to enter into agreements for an undivided ownership of such plants and facilities. However, PUDs and JOAs may enter into such agreements with fewer kinds of entities. They may enter into agreements with: (1) each other and cities of the first class; (2) rural electric cooperatives; and (3) IOUs under the jurisdiction of the Washington Utilities and Transportation Commission or the Oregon Public Utility Commission. Unlike cities, PUDs and JOAs are not expressly authorized to enter into such agreements with IOUs from states other than Washington or Oregon.

No statute expressly authorizes cities, PUDs, or JOAs to enter into such agreements with power marketers.

Two municipal utilities (of cities of the first class) and two PUDs are part owners of the Centralia Steam Plant, which is a coal-fired thermal electrical generating facility placed in operation prior to July 1, 1975. The other four owners are IOUs under the jurisdiction of Washington or Oregon utility commissions.

The lack of explicit authorization for PUDs to enter into ownership agreements with IOUs from states other than Washington and Oregon, and for either PUDs or cities to enter into such agreements with power marketers, limits the ability of any owner of the Centralia Steam Plant to sell its interest in the plant.

**Summary:** Cities of the first class, PUDs, and JOAs are authorized to enter into agreements for an undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975. Cities of the first class may enter into agreements for the use of such facilities. The agreements may include related common facilities, and the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility.

The agreements must give a city, PUD, or JOA a percentage ownership of any common facility, and of the electrical output, equal to the percentage of the money fur-



nished, or the value of property supplied, by the city, PUD, or JOA to acquire or construct the facility.

The cities, PUDs, and JOAs may enter into the agreements with: (1) each other; (2) rural electric cooperatives; (3) IOUs under the jurisdiction of the regulatory commission of any state regulatory commission; and (4) any power marketer under the jurisdiction of the Federal Energy Regulatory Commission. Other political subdivisions in any state and agencies of the United States authorized to generate or transmit electricity are not included in the list of entities with which cities may enter into such agreements.

**Votes on Final Passage:**

House	97	0
Senate	43	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The emergency clause is removed.

**VETO MESSAGE ON HB 1975-S**

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Substitute House Bill No. 1975 entitled:

"AN ACT Relating to the ownership of coal-fired thermal electric generating facilities placed in operation before July 1, 1975;"

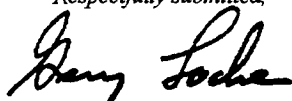
*This legislation provides the Centralia Steam Plant the ability to include a broader array of electric generating or transmitting entities within its partnership. This increased flexibility will help ensure that the plant will continue to operate into the future.*

*This legislation includes an emergency clause in section 3. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.*

*For this reason, I have vetoed section 3 of Substitute House Bill No. 1975.*

*With the exception of section 3, Substitute House Bill No. 1975 is approved.*

Respectfully submitted,



Gary Locke  
Governor

**HB 1982**

C 335 L 97

Limiting basic health plan eligibility for persons in institutions.

By Representatives Dyer, Cody and Backlund; by request of Health Care Authority.

House Committee on Health Care  
Senate Committee on Health & Long-Term Care

**Background:** A potential Basic Health Plan (BHP) enrollee is defined as an individual not eligible for medicare, who resides in an area of the state served by a managed health care system participating in the plan, and whose gross family income at the time of enrollment does not exceed twice the federal poverty level.

This definition does not exclude persons confined or residing in a government-operated institution. The administrator of the BHP is concerned that if such institutions begin enrolling confined persons, there will be a substantial increase in health service use and related premium costs.

**Summary:** The definition of BHP enrollee is amended to exclude a person confined or residing in a government-operated institution, unless eligibility criteria adopted by the administrator are met. The administrator is required to establish, in consultation with appropriate state and local government agencies, criteria defining eligibility for persons confined or residing in government-operated institutions.

**Votes on Final Passage:**

House	95	0	
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 27, 1997

**SHB 1985**

**PARTIAL VETO**

C 290 L 97

Allowing for pilot project landscape management plans.

By House Committee on Appropriations (originally sponsored by Representatives Buck, Regala, Sump, Pennington, Sheldon, Hatfield, Anderson, Butler and Dyer).

House Committee on Natural Resources  
House Committee on Appropriations  
Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means

**Background:** The state's forest practices statutes call for the protection of forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty, coincident with the maintenance of a viable forest products industry. Some forest practices rules address the protection of "public resources," which are defined as water, fish and wildlife, and capital improvements of the state or its political subdivisions.

The standard process for conducting forest management activities such as timber harvesting is to submit an application requesting to conduct the forest practice to the Department of Natural Resources. The department re-

views the application to see if it complies with the state's forest practices rules. If the department approves the application, the approval is normally in effect for a period of two years. Some forest management activities also require hydraulic project approval from the Department of Fish and Wildlife.

**Summary:** A legislative intent is stated that landowners and resource managers should be provided incentives to voluntarily develop long-term multispecies landscape management plans that will provide protection to public resources. The Legislature intends to establish up to seven experimental pilot programs in order to gain experience with landscape planning that may prove useful in fashioning legislation of a more general application.

Until December 31, 2000, the Department of Natural Resources is authorized to select not more than seven pilot projects for the purpose of developing individual landowner multispecies landscape management plans. The department must act in cooperation with the Department of Fish and Wildlife and, if the plan relates to water quality protection, the Department of Ecology. When choosing the number and location of pilot projects, the agencies must consider factors such as the risk to the habitat and species, the variety and importance of species and habitats in the planning area, geographic distribution, surrounding ownership, other landscape planning and watershed planning activities in the area, potential benefits to water quantity and quality, and the financial and staffing capabilities of participants.

Each pilot project must have a landscape management plan that contains certain required elements. The required elements include identification of the public resources selected for coverage under the plan and measurable objectives for the protection of these resources; a termination date of not later than 2050; identification of the forest practices rules that will not apply during the term of the plan; proposed habitat management strategies or prescriptions; provisions for monitoring, reporting and adaptive management; and conditions under which a plan may be modified or terminated.

Until December 31, 2000, the agencies must approve a landscape management plan and enter into a binding implementation agreement with the landowner when the agencies find that, based upon the best scientific data available

- the plan contains all of the required elements including measurable public resources objectives;
- the plan is expected to be effective in meeting those objectives;
- the landowner has sufficient financial resources to implement the management strategies or prescriptions called for in the plan;
- the plan will provide better protection than current state law for the public resources selected for coverage under the plan considered in the aggregate and, when compared to conditions that would result from compli-

ance with current state law, will not result in poorer habitat conditions over the life of the plan for any threatened, endangered, or candidate species selected for coverage in the plan, and will measurably improve habitat conditions for species selected for special consideration under the plan;

- The plan includes watershed analysis or provides for a level of protection that meets or exceeds the protection that would be provided by watershed analysis, if the landowner selects fish or water quality as a public resource to be covered under the plan; and
- The planning process provides for a public participation process, which will be developed by the department in cooperation with the landowner.

The Department of Natural Resources must provide an opportunity for public comment on the proposed plan for not less than 45 days. The department must approve or reject a proposed plan within 120 days of submittal of the plan. The department's decision to approve or disapprove a plan is subject to review under the State Environmental Policy Act (SEPA) and appeal to the Forest Practices Appeals Board.

Once a landscape management plan is adopted, the department is authorized to issue a single landscape level forest practices permit which is valid for the life of the plan. A landowner who receives a landscape level permit must meet annually with the state agencies to review the forest practices activities planned for the next 12 months and to determine whether such activities are in compliance with the plan. The state agencies will consult with affected Indian tribes and other parties who have expressed an interest in connection with the review. Forest practices that are consistent with the plan need not comply with the specific state forest practices rules identified in the plan, nor with certain new forest practices rules adopted after the approval of the plan. For SEPA purposes, forest practices conducted in compliance with an approved plan are deemed not to have the potential for a substantial impact on the environment as to any public resource selected for coverage in the plan. If a landowner has selected fish as one of the public resources covered under the plan, then the approved plan will serve as hydraulic project approval from the Department of Fish and Wildlife for the life of the plan. Except as otherwise provided in the plan, the agreement implementing the landscape management plan is an agreement that runs with the property covered by the approved plan.

The state agencies must seek to develop memorandums of agreement with federal agencies and affected Indian tribes that relate to tribal issues in the landscape management plans. The agencies must solicit input from affected Indian tribes in connection with the selection, review, and approval of any landscape management plan. If any recommendation from an affected Indian tribe is not adopted by the agencies, the agencies must provide a writ-

ten explanation of their reasons for not adopting the recommendation.

Pilot project participants must be selected no later than October 1, 1997. Management plans must be submitted to the state agencies no later than March 1, 2000. The Department of Natural Resources must report to the state Forest Practices Board annually on the status of each pilot project. The department will provide to the board by December 31, 2000, an evaluation of the pilot projects, including a determination about whether a permanent landscape planning process should be established, and a discussion of what legislative and rule modifications are necessary. The state agencies must develop a suitable process, jointly issued by the agencies, to permit landowners to secure all permits required for the conduct of forest practices in a single multi-year permit. The agencies must report to the Legislature on their efforts no later than December 31, 2000.

**Votes on Final Passage:**

House	95	0
Senate	35	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the null and void clause.

**VETO MESSAGE ON HB 1985-S**

May 9, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 6, Substitute House Bill No. 1985 entitled:

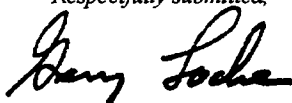
“AN ACT Relating to forest practices landscape management plan pilot projects;”

Section 6 of SHB 1985 contains a “null and void” clause, making this bill contingent upon funding being provided in the budget. The budget does contain full funding for implementation of this bill. However, approximately 65% of the funding requested by the agencies is provided in the budget. I believe that with good, efficient work, the majority of the important pilot projects authorized by this legislation can be completed with the limited funding.

For this reason, I have vetoed section 6 of Substitute House Bill No. 1985.

With the exception of section 6, I am approving Substitute House Bill No. 1985.

Respectfully submitted,



Gary Locke  
Governor

**HB 2011**

C 260 L 97

Authorizing school levies for periods not exceeding four years.

By Representatives Wensman, Cole, H. Sommers, Talcott, B. Thomas, Regala, Constantine, Ballasiotes, Radcliff, D. Schmidt, Carlson, Clements, Dyer, Bush, Johnson, Cairnes, Quall, Morris, Keiser, Linville, Veloria, L. Thomas, Backlund, Cooke, Kenney, Poulsen, Hatfield, Dickerson, Ogden, Kessler, Blalock, Tokuda, Conway, Costa and Honeyford.

House Committee on Education

**Background:** The Washington State Constitution specifies that propositions to levy additional taxes for school operating purposes must be limited to a period of two years. For a district operating levy to continue, it must be reauthorized by the voters every two years. Article VII, section 2 of the constitution requires the Legislature to affirm this taxing authority in statute.

Local school boards submit levies for initial voter consideration at either a state primary or general election, or on other election dates as provided by law. Levies may be for a single year or for two years. If the voters do not pass the first levy request, the levy may be submitted a second time.

**Summary:** State laws are modified to increase the two-year time period for authorizing a school operating levy. Propositions to levy additional taxes for school operating purposes may be for a period of up to four years.

The act takes effect if an accompanying constitutional amendment is approved at the next general election.

**Votes on Final Passage:**

House	93	4
Senate	41	8

**Effective:** December 4, 1997 (if approved and ratified by the voters at the next general election)

**ESHB 2013**

C 316 L 97

Developing an existing ground water right.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Regala, Schoesler, Linville, Johnson, Bush, McDonald, Mastin, Talcott, Delvin, Carrell, Smith, Koster, Sullivan, Kastama, Fisher, Conway, Cooper and Honeyford).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Permits and Certificates. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water

are established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. The permit system is based on the prior appropriation doctrine that "first in time is first in right." Once water is put to beneficial use in accordance with the conditions of such a permit, the permit holder is issued a water right certificate.

**Transfers and Changes.** The water right may be transferred to other uses or places of use through a transfer or change of a surface water right or an amendment to a groundwater right. A substitute or supplementary well may also be provided at a new location under such an amendment for a groundwater right. These transfers, changes, amendments, and substitute wells do not change the priority date of the original water right. However, they cannot be approved if they would interfere with existing rights, including junior rights.

**Summary:** The construction of replacement or additional wells under existing rights to groundwater is now statutorily divided into two categories and the categories are expressly treated differently. The categorization is based on whether the replacement or additional wells are to be constructed at a new location or at the location of the original well.

The construction of a replacement or additional well at a new location continues to require the approval of an application for an amendment to the right. The total withdrawal of groundwater from the original well and an additional well may not enlarge the right conveyed by the original permit or certificate. If a replacement well is approved, use of the original well must be discontinued and the original well must be properly decommissioned.

The construction of a replacement or additional well at the location of the original well is expressly allowed without application for an amendment to the right. However, the Department of Ecology must require a showing of compliance with the conditions that apply to replacement or additional wells and may specify an approved manner of construction. The construction of a replacement well or additional well at the location of the original well is no longer prohibited from impairing any existing rights, junior or senior. It now must not impair senior rights.

**Votes on Final Passage:**

House	95	1	
Senate	45	0	(Senate amended)
House	94	0	(House concurred)

**Effective:** July 27, 1997

**ESHB 2018**  
**PARTIAL VETO**  
C 231 L 97

Enacting health insurance reform.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Grant, Backlund, Quall, Zellinsky, Sheldon, Sherstad, Morris, Parlette, Scott and Skinner).

House Committee on Health Care  
Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means

**Background:** As managed care emerges as the prevalent method of delivering health care services, a number of issues have been missed about quality assurance standards of patient service utilization review, resolution of patient and provider grievances, and the adequacy of provider networks that contract with managed care organizations.

The Department of Social and Health Services contracts for managed care services in the state's Medical Assistance (Medicaid) program. These managed care services must comply with quality assurance standards and other standards in federal rules to receive federal matching funds.

Prior to 1994, health carriers typically reviewed each applicant for individual health coverage. This underwriting enabled carriers to predict costs and charge premiums to cover those costs. Preexisting condition limitations allowed carriers to provide coverage to some applicants who would otherwise be rejected because of health status, but the limitations also allowed carriers to make coverage decisions that reflected the need to evaluate risks and costs.

The Health Care Services Act of 1993, anticipating universal coverage under which everyone would have health coverage, authorized the Office of the Insurance Commissioner (OIC) to adopt rules restricting the use of preexisting conditions. In 1994, the OIC established a three-month open enrollment during which there was guaranteed issue of health policies in the individual market with no underwriting based on health status and no waiting period for coverage of preexisting medical conditions. The rules also require guaranteed issue without underwriting for health status outside the open enrollment period, although a three month preexisting condition waiting period was allowed; this rule was codified in 1995. Between 1993 and 1995, enrollment in the individual market expanded by 40 percent. At the end of this period, however, carriers began reporting significant losses in the individual market, and individual market rates, which were relatively flat initially, began increasing. Enrollment in the individual market leveled off and may be declining. The explanation for the market's behavior could include many complex factors, but it appears that new enrollees entering the market after the 1994 rules were adopted tended to use more health care services, and claims submitted to carriers increased. Generally, as rates increase without incentives for healthy people to maintain continuous coverage, the possibility exists that adverse selection will occur, where healthy people who least expect to need expensive care choose not to have health coverage, or

choose to enter the market only when needing major medical care and dropping coverage after receiving medical treatment.

The Washington State Health Insurance Pool (WSHIP) was created in 1988 to provide a fee-for-service health insurance product at 150 percent of average rates for individuals who had been denied "substantially equivalent" coverage by a carrier, usually because of serious medical conditions. The pool is administered by a private insurer according to state specifications and is partially subsidized through an assessment on insurers. The pool's board of directors has deemed the Basic Health Plan (BHP) as "substantially equivalent" to the pool plan, which results in the denial of pool coverage when BHP coverage is available. However, the BHP drug benefit is not as comprehensive as the pool's and the BHP does not include rehabilitation services. The WSHIP does not offer a managed care product nor does it include maternity care service, which limits the scope and cost containment ability of the pool plan. The cost of WSHIP premiums is disparate for men and women. WSHIP rates must be approved by the OIC.

In 1995, a model plan, based on the BHP benefits, was created which all carriers must offer. As written, a change in the BHP would require a change in the model plan.

The adjusted community rate standard, which applies to all health insurance coverage for individuals and to coverage for groups under 50 enrollees, permits rate variation only for geographic area differences, family size, age and wellness activities. The granting a tenure discount for individuals who enroll for an extended period is not allowed.

Loss ratios are used by the OIC to review carrier rate modification requests. The OIC enabling statute grants explicit authority to adopt rules setting loss ratios. Under the OIC review process, if the benefits are "deemed reasonable" to the premium then the loss ratio and rate are generally approved. Loss ratio rules have been adopted for individual and group disability coverage and for health care services contractors, although the contractor rules were repealed in October 1995. Loss ratio rules have never been adopted for health maintenance organizations.

Health insurance plans contain criteria that include or exclude coverage for certain conditions or treatments and these determine the extent of coverage for medical tests, treatments, procedures or care. Under these criteria, an insurer may decide that treatment recommended by a provider is not covered. If the patient does not get treatment and suffers harm because of the lack of the treatment, a question of liability arises. Both the insurer and the health care provider could be defendants in a lawsuit. Potential liability issues are sometimes addressed in contract clauses between the health carrier and the provider. These clauses, known as "Wickline clauses" after a California case, are not addressed in Washington law.

There is no statute governing the appropriate coverage of emergency services by a health carrier.

**Summary: Utilization Review.** An entity performing utilization review under contract with, or acting on behalf of, a health carrier must meet specified standards by January 1, 1998. "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility.

The Office of the Insurance Commissioner (OIC) is required to periodically examine national accreditation standards for utilization review and report to the Legislature to ensure that such standards continue to be substantially equivalent to or exceed the act's requirements. Health carriers that continuously maintain such accreditation are deemed in compliance with the state requirements.

In performing a utilization review, a review organization is limited to access to the records of persons covered by the specific health carrier or lawful third party payer for which the review is performed.

**Grievance Procedures.** Standards for establishing and maintaining grievance procedures by health carriers are provided. A "grievance" is defined as a written complaint submitted by or on behalf of a covered person regarding denial of payment for medical services, or service delivery issues, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

Every health carrier is required to: use written procedures for receiving and resolving grievances from covered persons; include, at each level of review of a grievance, a person or persons with sufficient background and authority to deliberate the merits of the grievance and establish appropriate terms of resolution; provide toll free or collect telephone access to covered persons for purposes of presenting a complaint for review; provide the covered person, or authorized representative of the covered person, with a written determination of its review; provide a second level grievance review for those covered persons who are dissatisfied with the first level grievance review decision; process the grievance in a reasonable length of time, not to exceed 30 days from receipt of the request for a second level review; issue a written decision to the covered person or authorized representative of the covered person within five working days of completing the review meeting; file with the OIC its procedures for review and adjudication of grievances initiated by covered persons; include in the policy material a notice of the availability and the requirements of the grievance procedure process; make a decision and notify the covered person in no more than two business days after the request for expedited review is received.

The OIC is required to periodically examine national accreditation standards for grievance procedures and report to the Legislature to ensure that such standards continue to be substantially equivalent to or exceed the act's requirements.

Health carriers that continuously maintain such accreditation are deemed in compliance with the state requirements.

The statutory grievance procedure requirement for health maintenance organizations is repealed. The grievance procedure for carriers is amended to apply to providers only.

**Network Adequacy.** The Department of Health, in consultation with the OIC, the Department of Social and Health services (DSHS), the Health Care Authority (HCA), the Health Care Policy Board, consumers, providers, and health carriers, must review the need for network adequacy requirements and submit its report and recommendations to the health care committees of the Legislature by January 1, 1998. No agency may engage in rulemaking relating to network adequacy until the Legislature has reviewed the findings and recommendations of the study and has passed related legislation.

**Access Plan Requirements.** As of July 1, 1997, each health carrier must develop and update annually an access plan that meets specified requirements. By August 1, 1997, each health carrier must submit its access plan to the DOH.

The OIC is required to periodically examine national accreditation standards for network adequacy and report to the Legislature to ensure that such standards continue to be substantially equivalent to or exceed the act's requirements. Health carriers that continuously maintain such accreditation are deemed in compliance with the state requirements.

**Medical Assistance Waivers.** To the extent required by federal Medicaid statutes, the state's utilization review, grievance procedures, and access plan standards do not apply to contracts with health carriers awarded by the DSHS.

**Preexisting Condition Limitations.** The time frame regulating a carrier's use of a three-month benefit waiting period for preexisting conditions is changed from all year to an open enrollment period of the months of July and August only.

Carriers may refuse enrollment if the applicant has not maintained continuous coverage and is not applying as a newly eligible dependent, and the carrier used uniform health evaluation criteria for all individual health plans it offers.

If a carrier refuses to enroll an applicant, it must offer to enroll the applicant in the Washington State Health Insurance Pool (WSHIP) in an expeditious manner as determined by the board of directors of the WSHIP. An applicant who declines enrollment must decline in written form.

Carriers may not refuse enrollment based on health evaluation criteria to otherwise eligible applicants who have been covered either continuously or for any part of the three-month period immediately preceding the date of application for the new individual health plan under a comparable group or individual health benefit plan with

substantially similar benefits. Coverage of the Basic Health Plan (BHP) and the Medical Assistance Program are considered comparable health benefit plans, as is the WSHIP, as long as the person is continuously enrolled in the WSHIP until the next open enrollment period.

Carriers must accept for enrollment all newly eligible dependents within 63 days of eligibility.

At no time are carriers required to accept for enrollment any individual residing outside of Washington, except for qualifying dependents who reside outside the carrier service area.

**Continuity of Coverage.** Guaranteed renewability and product modification provisions are amended to permit carriers to discontinue offering a health plan, if the carrier: provides notice to each covered person at least 90 days prior to discontinuation; offers to each covered person the option to purchase any other health plan currently being offered by the health carrier to similar covered persons in the market category and geographic area; and acts uniformly without regard to any health-status related factor of covered persons or persons who may become eligible for coverage.

A health carrier may discontinue all health plan coverage in one or more of the established lines of business if it provides notice to the OIC and to each person covered by a plan within the line of business of the discontinuation at least 180 days prior to the expiration of coverage, and all plans issued are discontinued and not renewed. In such cases, the carrier may not issue any new health plan coverage in the line of business in the state for five years.

**Model Basic Health Plan.** The Model Basic Health Plan is defined as the BHP benefit package configured on January 1, 1996. Therefore, future adjustments in the BHP will not affect the model plan.

**Reporting Requirements.** Foreign (out-of-state) and alien (out-of-country) insurers are exempt from requirements to report the names and addresses of all carrier officers, directors, or trustees and their compensation in the insurer's supplemental compensation exhibit of its annual statement.

**Tenure Discounts.** Adjusted community rate provisions are modified to permit carriers to vary the adjusted community rate to offer tenure discounts for continuous enrollment in the health plan of two years or more, not to exceed 10 percent of the rate.

**Washington State Health Insurance Pool.** The WSHIP is authorized to offer managed care plans. Covered persons enrolled in the WSHIP on January 1, 1997, may continue coverage under the WSHIP fee-for-services plan in which they are enrolled on that date. The WSHIP may, however, incorporate managed care features into such existing plans. Maternity care service without waiting periods is added to the WSHIP benefits when provided in a managed care plan. The WSHIP must comply with the three-month preexisting condition limitation as required of private carriers. The WSHIP standard risk rate base is changed from 10 to 50 persons in the average standard

VETO MESSAGE ON HB 2018-S

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220, and 221, Engrossed Substitute House Bill No. 2018 entitled:

“AN ACT Relating to health insurance reform;”

For the following reasons, I have vetoed sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220 and 221 of Engrossed Substitute House Bill No. 2018:

ESHB 2018 is entitled the “Consumer Assistance and Insurance Market Stabilization Act”. I believe strongly in both concepts reflected in that title, but I do not think that this bill would effectively achieve either of those goals. It is in everyone’s interests to have a strong, viable private health insurance market, but it is equally important to maintain the commitments that were previously made by the legislature to guarantee access to insurance for the people of this state.

I believe our goal must be to have a wide range of options to those in all health insurance markets. I commit to work with consumers, insurance companies, health care providers and other interested parties to develop meaningful solutions that will increase the availability of a wide range of choices in the individual market, while promoting stability.

The viability of the individual insurance market is critical, but we must consider other options that do not roll back the progress we have made in access to health care in this state. A comprehensive solution must include the Washington State Health Insurance Pool (WSHIP) (the state’s high-risk pool), the Basic Health Plan, predictable rate review in a stable regulatory environment, and the involvement of consumers, health care providers, health insurers and others. I commit to work with interested parties to develop equitable solutions to these complex problems.

I have vetoed sections 101 through 108 and section 111 which create standards for grievance procedures, utilization review and access plans for health carriers. Those sections “deem” compliance with the national organization standards of the National Commission on Quality Assurance (NCQA) to be sufficient to meet the standards contained in the bill. This would be a direct violation of Woodson v. State, 95 Wn.2d 257 (1980) which prohibits delegation of legislative power to non-governmental entities. NCQA is a private organization that can change standards at any time. I would hope that by working together, we can develop or appropriately adopt standards to protect consumers and achieve stability for managed care plans. I am not opposed to looking at the use of national standards on these issues in a constitutional manner.

ESHB 2018 directs the Health Care Authority, along with state agencies, consumers, carriers and providers to review the need for network adequacy requirements. While there may be a need for such a study, no funding is provided for the Health Care Authority to conduct the study. Therefore, I have vetoed sections 109 and 110.

Section 203 creates a two-month (July and August) open enrollment period and, during the rest of the year, allows insurance carriers to deny applicants based on medical conditions. Those who enter during the two-month period would still be subject to the three-month pre-existing condition waiting period. Such individuals could find themselves waiting as long as 13 months for regular coverage. Those denied coverage the rest of the year would have access to the state’s high risk pool at higher rates than individual plans, an unaffordable option for many. Section 203 represents a significant change from current policy, which provides that no one may be denied health insurance coverage for any reason.

group rate. The maximum rate for managed care coverage is set at 125 percent of the model group rate. WSHIP rates no longer require the approval of the OIC.

For the purposes of determining if an individual already has substantially equivalent coverage, coverage under the BHP is not deemed to be substantially equivalent to the WSHIP plans.

**Loss Ratios.** The benefits in a contract of a health maintenance organization and health care services contractor are deemed reasonable in relation to the amount charged as long as the anticipated loss ratios are, at least: 65 percent for individual subscriber contract forms; 75 percent for franchise plan contract forms; 80 percent for group contract forms other than small group contract forms; and 75 percent for small group contract forms.

Loss ratios are also set for individual, group, and blanket disability insurance, except for: additional indemnity and premium waiver forms for use only in conjunction with life insurance policies; Medicare supplement policies; and credit insurance policies.

**Emergency Medical Services.** Health carriers are required to cover emergency services necessary to screen and stabilize a covered person if a prudent layperson acting reasonably would have believed that an emergency medical condition existed.

An “emergency medical condition” is defined as the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person’s health in serious jeopardy. “Emergency service” is defined as otherwise covered health care items and services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

**Study of Wickline Clauses.** A Joint Task Force on Wickline Clauses is created to review the practice of contractually assigning or avoiding potential liability for decisions by health carriers or other third-party payers to not pay for health care services recommended by a health care provider. The task force, comprised of four representatives, four senators, and eight non-legislative persons, must report to the Legislature by December 1, 1997.

**Votes on Final Passage:**

House	66	32	
Senate	30	19	(Senate amended)
House	61	30	(House concurred)

**Effective:** July 27, 1997

January 1, 1998 (Section 301)

**Partial Veto Summary:** The Governor vetoed provisions relating to managed care rule making, preexisting condition limitations, continuation of existing coverage, and rate setting loss ratios.

In section 204, health carriers are given the option to discontinue or modify a particular plan with ninety days' notice to enrollees. While carriers must make available all other plans currently offered, there is no requirement that comparable benefits be offered in those plans. This proposes significant change from current law which requires that carriers may not discontinue a plan unless the carrier offers a comparable product as an alternative.

Section 201 expresses legislative intent to preserve guaranteed issue and renewability, portability and limitations on the use of pre-existing condition exclusions. This bill represents an attempt to significantly limit those reforms. There is no objective data to support the claim that the "lack of incentives" to purchase health care in a timely manner is contributing significantly to the costs of health insurance. We want to encourage coverage by having a choice of affordable products available to consumers, ranging from comprehensive to basic benefits.

I have vetoed sections 216 through 221 because I believe rate review standards are more appropriately dealt with in the administrative rule making process. I believe there must be reasonable standards for rate regulation that protect consumers from excessive charges while, and at the same time allow predictability for insurance companies in the rate review process.

I encourage the development of standards that meet both of these objectives and stand ready to work with interested parties to achieve such a compromise. The language in sections 218 through 221 is currently included in Washington Administrative Code and is therefore unnecessary in statute. Further, the language of the bill is ambiguous as to loss ratios for health maintenance organizations and health care service contractors.

There are many aspects of the bill that I support. For example, the changes in sections 210 through 215 to the WSHIP are positive. The bill allows the plan to develop a managed care program at a lower premium than the current fee-for-service plan. It also expands coverage to include maternity benefits and eliminates gender rating for pool insurance products. This makes WSHIP a better plan. However, with current law in effect, very few have access to it. We must look at WSHIP as a part of the solution to broadening coverage options in the individual market.

Section 301 creates a standard for health plan coverage of emergency room care, when a reasonable person would have believed that an emergency medical condition exists. This is a very positive move for consumers who find themselves in a perceived medical crisis forcing them to seek services in an emergency room. In a medical crisis, families should not be forced to worry about whether or not their health insurance plan will pay for the needed services.

With the exception of sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220 and 221, I am approving Engrossed Substitute House Bill No. 2018.

Respectfully submitted,

Gary Locke  
Governor

HB 2040

C 109 L 97

Authorizing the continuation of a special insuring agreement for workers' compensation for the United States department of energy.

By Representatives Hankins, Delvin, McMorris and Conway; by request of Department of Labor & Industries.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Uncodified legislation enacted in 1943 permitted the Department of Labor and Industries to adopt a war projects insurance rating plan to provide workers' compensation coverage for workers engaged in certain projects involving the prosecution of World War II and working directly or indirectly for the United States. This authority was modified in 1951 to cover insurance requested by the U.S. Secretary of Defense or the chair of the Atomic Energy Commission for national defense projects. These plans were not required to conform to the state's industrial insurance law if the plans would effectively aid the national interest. Pensions authorized under these plans were to be invested in a specific manner by the State Finance Committee.

The act authorizing these plans was to remain effective during the continued existence of an emergency declared by the President under certain proclamations or while certain amendments to the War Powers Act of 1941 were in effect.

**Summary:** The authority of the Department of Labor and Industries is modified with respect to approving special insuring agreements when requested by the U.S. Secretary of Defense or the secretary of the U.S. Department of Energy. The department may provide industrial insurance coverage for workers engaged directly or indirectly in work for the United States in projects at the Hanford Nuclear Reservation. If an agreement is entered into, it may remain in effect as long as the department deems it necessary to accomplish the purpose of this agreement authority. As under prior law, these agreements need not conform with the requirements of the state's industrial insurance law.

References are deleted to war project or defense project insurance rating plans and to aiding the prosecution of the war or the defense of the United States. A requirement is repealed for this authority to be in effect during the continued existence of a state of emergency declared by the President. Specific instructions regarding the investment of pensions under the agreements are deleted.

The agreement authority is codified in the industrial insurance act.

**Votes on Final Passage:**

House 96 0  
Senate 46 0

**Effective:** July 27, 1997



**ESHB 2042**  
**PARTIAL VETO**  
 C 262 L 97

Providing a grant program for reading in the primary grades.

By House Committee on Education (originally sponsored by Representatives Johnson, Talcott and Hickel).

House Committee on Education  
 House Committee on Appropriations  
 Senate Committee on Education

**Background:** Past legislation has emphasized the importance of learning to read for students' academic success. When an assessment tool is developed by the Washington Commission on Student Learning, students must be assessed for reading literacy skills in the third grade no later than March 31 of each year. The assessment tool must be implemented in the 1998-99 school year.

**Summary:** The Superintendent of Public Instruction (SPI) must identify a collection of tests to test second grade reading accuracy and fluency skills. The SPI must create a pilot project to identify which of those tests will be included in a final collection of tests. Schools and school districts may voluntarily participate in the pilot project during the 1997-98 school year. Starting in the 1998-99 school year, school districts must select a test from the final collection, and the school district must administer the test at the entire school district level for at least three years. Students who fall substantially below grade level must be re-tested at least once. Schools must notify parents about the results, notify parents what actions the school will take to improve the child's reading, and provide parents with strategies to help the parents improve their child's score.

The SPI must establish a primary grade reading grant program. The purposes of the program are to train teachers in teaching methods that have proven results gathered through quantitative research and to assist all students in beginning reading. Several requirements are established under the grant program. Beginning December 1, 1997, the SPI must report biennially to the Legislature on the grant program. Five years after the beginning of the grant program, the SPI must also disseminate to school districts information regarding the effectiveness of the models of teaching methods, materials, and implementation strategies.

The SPI must report biennially to the Legislature about the grant program starting on December 1, 1999. The SPI must also disseminate to the school districts, five years after the beginning of the grant program, information regarding the results of the effectiveness of the models of teaching methods and materials and implementation strategies.

The SPI may use up to 1 percent of the funds appropriated to administer the grant program.

The third grade reading test is eliminated.

**Votes on Final Passage:**

House	96	0	
Senate	43	0	(Senate amended)
House	94	0	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The emergency clause is deleted.

**VETO MESSAGE ON HB 2042-S**

May 6, 1997

To the Honorable Speaker and Members,  
 The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 8, Engrossed Substitute House Bill No. 2042 entitled:

"AN ACT Relating to reading in the primary grades;"

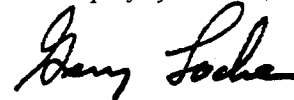
This legislation replaces the current requirement for a third-grade reading test with a requirement for a second-grade reading test. It also establishes, under the Superintendent of Public Instruction, a grant program to train teachers and assist students in beginning reading, and requires the Superintendent to report biennially to the legislature beginning in 1999.

This legislation includes an emergency clause in section 8. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 8 of Engrossed Substitute House Bill No. 2042.

With the exception of section 8, Engrossed Substitute House Bill No. 2042 is approved.

Respectfully submitted,



Gary Locke  
 Governor

**SHB 2044**  
**PARTIAL VETO**  
 C 219 L 97

Revising the definition of personal wireless service facilities and microcells.

By House Committee on Energy & Utilities (originally sponsored by Representatives Crouse, Pennington, Mastin, McMorris, DeBolt, D. Sommers, Kessler and Delvin).

House Committee on Energy & Utilities  
 Senate Committee on Energy & Utilities

**Background:** As the demand for wireless telecommunications services has increased, the need for wireless antenna sites has increased correspondingly. Numerous small sites help the wireless telecommunications industry address two concerns: (1) capacity (more users wanting to use a wireless system at a given time than the system can accommodate); and (2) coverage (providing coverage

in all areas and preventing "dropped calls" because antenna sites do not overlap). Microcell technology has the potential of increasing capacity and coverage by replacing a single antenna tower with several smaller microcells.

An antenna, or cell, site consists of radio transmitters, receivers, and antennas. Most sites are created by placing antennas on existing structures. Other sites are created by placing antennas on towers or monopoles. The receivers and transmitters usually are housed in small equipment shelters or rooms. A site connects with other facilities by transmitting radio waves to a mobile switching office, which routes calls to the intended destinations.

In 1995, the Governor's Telecommunications Policy Coordination Task Force studied the issue of wireless antenna siting. At that time, some citizens suggested encouraging the siting of microcells, in part, out of the belief that exposure to radio frequency electromagnetic radiation is lower near microcells than near other wireless antennas.

In 1996, the Legislature enacted legislation encouraging local governments, when a telecommunications service provider applies to site several microcells in a single geographical area: (1) to allow the applicant to file a single set of State Environmental Policy Act documents, if applicable, and a single set of land use permit documents that would apply to all the microcells to be sited; and (2) to render decisions in a single administrative proceeding.

The legislation defined a microcell as a wireless communications facility consisting of an antenna that is either: (1) four feet in height and having an area of not more than 580 square inches; or (2) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

Finally, the legislation directed the State Building Code Council (SBCC) to exempt equipment shelters from state building envelope insulation requirements.

When the SBCC enacted rules exempting equipment shelters from building envelope insulation requirements, the SBCC found the statutory definition did not correspond to the actual configuration of microcells. Consequently, the SBCC modified the definition of "microcell," by including a requirement that the associated equipment cabinet be six feet or less in height and no more than 48 square feet in floor area.

**Summary:** When a telecommunications service provider applies to site several microcells and/or minor facilities in a single geographical area, local governments are encouraged: (1) to allow the applicant to file a single set of State Environmental Policy Act documents and land use permit documents that would apply to all the microcells and/or minor facilities to be sited; and (2) to render decisions in a single administrative proceeding.

"Minor facility" is defined in the same manner as the State Building Code Council definition of a microcell, except a minor facility may have up to three antennas.

**Votes on Final Passage:**

House 97 0  
Senate 45 3

**Effective:** July 27, 1997

**Partial Veto Summary:** The three sections amending the current definition of "personal wireless service facilities" are removed.

**VETO MESSAGE ON HB 2044-S**

April 25, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 3, and 4, Substitute House Bill No. 2044 entitled:

"AN ACT Relating to revising definitions for personal wireless service facilities;"

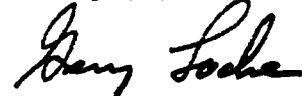
SHB 2044 concerns the siting of personal wireless service facilities. Under current law, the siting of certain personal wireless service facilities is exempt from the Environmental Impact Statement (EIS) process under the State Environmental Protection Act (SEPA). Sections 1, 3, and 4 of this bill change the definition of "personal wireless service facility" in a way that arguably, though unintentionally, expands the definition to include radio transmission towers, the siting of which would then also be exempt, under certain conditions, from SEPA-EIS review. This is an unintended consequence that should not be risked. The current law, with its current definition, is preferable to the uncertainty created by the new definition in this bill.

I am approving the remainder of the bill, section 2, which was the primary focus of the participants in the legislative process this session. It encourages local governments to permit single applications and single administrative proceedings for the SEPA review of microcells with two or three antennas.

For these reasons, I have vetoed sections 1, 3, and 4 of Substitute House Bill No. 2044.

With the exception of sections 1, 3, and 4, Substitute House Bill No. 2044 is approved.

Respectfully submitted,



Gary Locke  
Governor

**E2SHB 2046**

C 272 L 97

Creating foster parent liaison positions.

By House Committee on Appropriations (originally sponsored by Representatives Cooke, Kessler and Boldt).

- House Committee on Appropriations
- House Committee on Children & Family Services
- Senate Committee on Human Services & Corrections
- Senate Committee on Ways & Means

**Background:** Under existing law, the Department of Social and Health Services (DSHS) is required to develop a recruiting plan for an adequate number of foster and adoptive homes and submit the plan annually to the appropriate

committees of the Legislature. The report must include a section on foster care turnover, causes, and recommendations. High turnover of foster parents is attributed to poor working relationships between foster parents and department case workers. The department is also required to monitor out-of-home placements and report the results of its monitoring to appropriate legislative committees on an annual basis. Foster parents are considered part of a professional foster care team serving dependent children, but the department does not provide child care when foster parents are required to attend meetings outside the home.

**Summary:** The DSHS will provide an annual report to the Governor and the Legislature on the success of the department in completing home studies, reducing the foster parent turnover rate, and implementing and operating the passport program. The DSHS will contract with a private agency to recruit an adequate number of prospective adoptive and foster homes. The department will contract with a private agency for a foster parent liaison position in each departmental region. The foster parent liaison will reduce foster parent turnover by a specified percentage established in their contract with the DSHS. The DSHS will contract for home studies for legally free children who have been awaiting adoption finalization for more than 90 days. The home studies selected are for the children awaiting adoption finalization for the longest period of time. The DSHS will provide foster parents who are required to attend training, meetings, and other official functions with child care. The department will provide a foster care passport for each foster child who has been in foster care for 90 consecutive days or more. However, the foster parents are to be notified before placement of any known health conditions that pose a serious threat to the child and any known behavioral history that presents a serious threat to the child or others entering care after the effective date of the legislation. The foster parent will keep the information confidential.

**Votes on Final Passage:**

House	96	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 1, 1997

**ESHB 2050**

FULL VETO

Identifying when a new water right would interfere with an existing water right.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Mastin, Chandler, Clements and Honeyford).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Protection of Senior Rights. If, upon investigating an application for a water right permit, the Department of Ecology (DOE) finds that the use of water proposed in the application would impair or conflict with existing rights, the department must deny the issuance of the permit.

Relationship of Groundwater Rights to Surface Water Rights. The groundwater code states that, to the extent that groundwater is part of or tributary to a surface stream or lake or the withdrawal of groundwater would affect the flow of a body of surface water, the right to use the surface water is superior to any subsequent right acquired to use the groundwater.

Instream Flows and Permit Processing. The establishment of a minimum instream flow or lake level constitutes an appropriation with a priority (seniority) date that is the effective date of the establishment of the flow or level. If the DOE approves a water right permit relating to a body of water for which minimum flows or levels have been adopted, the surface water code requires the permit to be conditioned to protect the levels or flows.

The Water Resources Act of 1971 provides a number of general fundamentals that are to guide the use and management of the waters of the state. One of these fundamentals requires that "base" flows be retained in perennial rivers and streams to preserve certain instream values. Withdrawals of water which would conflict with the base flows may be authorized only for overriding considerations of the public interest.

The hydraulic code allows the DOE to refuse to issue a permit to divert or store water if the department determines that issuing the permit might result in lowering the flow of water in a stream below the flow necessary to support adequately food fish and game fish populations in the stream.

Other Rules For Issuing Groundwater Permits. The DOE cannot grant a permit for the use of groundwater beyond the capacity of the groundwater body to yield the water within a reasonable or feasible pumping lift or within a reasonable or feasible reduction of artesian pressure. The DOE may determine whether the granting of such a permit would injure or damage any existing rights and may require further evidence before granting or denying the permits.

**Summary:** Groundwater. A rule is established for determining whether a permit for the use of groundwater from a confined aquifer can be denied or conditioned on the basis of its impairment of or conflict with an existing surface water right. The permit cannot be denied or conditioned on this basis unless: (1) the withdrawal of groundwater will cause a measurable head reduction within 50 feet of the surface water body in question in the shallowest unconfined aquifer that underlies that surface water body; or (2) withdrawal of the groundwater will cause a measurable reduction in the flow or level of the surface water body. If these effects occur, the surface water right that is

not being satisfied, including an instream flow set by rule, is deemed to be affected or impaired.

Neither this rule nor the rules of current law regarding the capacity of an aquifer to yield water prevent the DOE from limiting future withdrawals by adopting rules after following the procedures of: the Water Resource Act of 1971; a section of law that allows the adjustment of water use management under an existing groundwater area or subarea management plan; or statutes that permit groundwater management studies to be initiated locally and allow the development of local groundwater management programs.

A rule is also established for determining whether the withdrawal of groundwater from an unconfined aquifer would affect or impair surface water rights. The surface water rights are affected or impaired if, after no more than six months of pumping, the surface water will lie within the cone of depression of a well tapping the groundwater.

These rules of impairment regarding the use of water from a confined aquifer are provided only for the DOE's decisions regarding water permit applications and reflect the uncertainty that is inherent in making determinations regarding future impacts of withdrawing groundwater. A person claiming that a senior water right is injured by one or more junior water rights may file an action in a local superior court to enjoin the junior water rights. The superior court must hear the action de novo and if it finds, by a preponderance of the evidence, that the senior right is injured, the court may enjoin the use of the junior rights in reverse order of priority to protect the senior right. These provisions do not apply to a senior right that is a minimum flow or level or the closure of a surface water body to further appropriation.

The existence of hydraulic continuity between groundwater and a surface body of water does not, in itself, mean that an existing water right in the surface water body will be impaired by a proposed permit for a groundwater right or an amendment to such a right. If a surface water right would be impaired by a proposed groundwater permit for any reason, the DOE may still grant the permit if the applicant proposes a satisfactory plan for mitigating the impairment.

In considering applications for water use permits, the DOE must take into consideration: seasonal variations in water supply and in the recharge of surface and ground water bodies; and the effects of any impoundment or any other water supply augmentation or mitigation provided by the applicant on the availability of water and on the effects of granting the permit.

**Reconsideration of Applications.** If an application for a groundwater permit is denied between November 1, 1995, and the effective date of this bill, and one of the grounds for the denial is impacts on existing water rights, established instream flows, or surface water closures, the applicant may have the application reconsidered by the DOE without losing the priority date of the original appli-

cation. The application must be submitted for reconsideration within 30 days of the effective date of the bill.

**Transfers in General.** Any right represented by an application for a water right for which a permit for water use has not been issued by the time a transfer, change, or amendment of an existing right is approved is not considered to be injured or detrimentally affected by the transfer, change, or amendment.

**Votes on Final Passage:**

House	59	35	
Senate	31	16	(Senate amended)
House	60	38	(House concurred)

**VETO MESSAGE ON HB 2050-S**

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

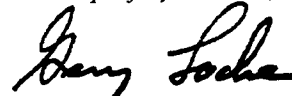
I am returning herewith, without my approval, Engrossed Substitute House Bill No. 2050 entitled:

"AN ACT Relating to determining the impairment of water rights and uses;"

Engrossed Substitute House Bill No. 2050 would set standards and criteria for determining impairment due to hydraulic continuity between ground and surface water. Hydrogeologists disagree about the bill's proposed methods and express concerns that if implemented, existing water uses could be negatively impacted. Ultimately, we do need a better definition of impairment, but this bill doesn't provide the answers we need.

For these reasons, I have vetoed Engrossed Substitute House Bill 2050 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**2SHB 2054**

**PARTIAL VETO**

C 442 L 97

Authorizing local watershed planning and modifying water resource management.

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Clements, Mastin and Honeyford).

House Committee on Agriculture & Ecology  
House Committee on Appropriations  
Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background: Water Resource Management - General.** With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day are exempted from this permit requirement. The

permit system is based on the prior appropriation doctrine that "first in time is first in right." Other laws authorize the state to establish minimum flows and levels for streams and lakes. The permit system and the state's laws for managing water resources are administered by the Department of Ecology (DOE). Transfers of or changes in existing water rights may be made with the approval of the DOE. Appeals of a DOE water permit decision go first to the Pollution Control Hearings Board and then to superior court.

Water Resources Inventory Area (WRIA) Planning.

The Water Resources Act directs the DOE to develop a comprehensive state water resources program for making decisions on future water resource allocation and use. The act permits the DOE to develop the program in segments. Under the act, the DOE has divided the state into 62 WRIsAs.

Groundwater Planning. The groundwater code permits the DOE to designate and manage groundwater areas, subareas, or depth zones to prevent the overdraft of groundwaters. In 1985, legislation was enacted that permits groundwater management studies to be initiated locally and allows local governments to assume the lead in developing local groundwater management programs.

Interties. Existing public water system interties were expressly acknowledged by statute in 1991, and new interties were authorized under certain circumstances. By definition, these interties do not include the development of new sources of supply to meet future demand.

Summary: WRIA Planning. The county with the largest area within a WRIA, the city obtaining the largest amount of water from a WRIA, and the largest water supply utility in the WRIA may jointly and unanimously choose to initiate local water resource planning for the WRIA. If planning is conducted for the WRIA, one planning unit for the WRIA is to be appointed as follows: one member representing each county in the WRIA, appointed by the county; one member for each county in the WRIA representing collectively all cities in the WRIA, appointed by the cities jointly; one member for each county in the WRIA representing collectively all public water supply utilities other than cities' utilities in the WRIA, appointed by the utilities jointly; one member representing collectively all conservation districts in the WRIA, appointed by the districts jointly; four members representing the general citizenry, three appointed by the counties jointly, and 1 appointed by the cities jointly; and nine members representing various interest groups, six appointed by the counties jointly, and three appointed by the cities jointly. If one or more federal Indian reservations are in the WRIA, one representative of the tribal government of each reservation is invited to be appointed to the planning unit. One representative of the departments of Ecology, Fish and Wildlife, and Transportation is member for each of the planning unit and these three members share one vote. In addition, the largest water purveyor in a WRIA is

to be represented on a planning unit for a WRIA in King, Pierce, Snohomish, or Spokane counties, whether the main offices of the purveyor are or are not located in the WRIA. Further, the members representing the counties, cities, and water utilities may unanimously vote to add up to five additional members representing interest groups and the general citizenry. In lieu of this specified membership, the counties with territory in the WRIA may choose as the WRIA planning unit an existing planning unit where water resource planning efforts have commenced before the effective date of the bill.

For a WRIA in King, Pierce, Snohomish, or Spokane counties, the water purveyor using the largest amount of water from the WRIA may choose to be the lead agency for WRIA planning. Otherwise and elsewhere, the counties in the WRIA choose the lead agency from among the governmental entities in the WRIA. The lead agency provides staff support for the planning unit.

Procedures for conducting multi-WRIA planning and for appointing the members of one planning unit for the multi-WRIA area are established. No planning unit appointed for WRIA planning may possess the power of eminent domain.

A county must have more than 15 percent of the area of a WRIA within its boundaries to be considered to be a county with territory in the WRIA for the development of plans. Certain qualifications for the members of the planning unit are listed. Two of the members representing the general citizenry must be water right holders. The planning unit is to begin work when two-thirds of its eligible members have been appointed. If a member of a WRIA planning unit has a certain number of unexcused absences, the member's position on the planning unit is considered to be vacant.

WRIA plans may not affect in any manner a general adjudication of water rights. A plan may not impair or diminish a water right that exists prior to the adoption of the plan or be inconsistent with federal reclamation projects or with stream flows or conditions set for federally licensed hydropower projects. The plan cannot establish standards for water quality or regulate water quality, directly or indirectly. A plan may not be developed such that its provisions are in conflict with state statute or federal law. WRIA plans must be consistent with and not duplicate efforts already under way in the WRIA, including those under forest practices laws and rules. Ongoing efforts to develop new resources and the sharing of existing resources cannot be affected. No moratorium may be imposed on the DOE's water resource decision-making solely because of ongoing planning efforts or the absence of a plan or planning effort. New planning units must recognize efforts already in progress.

All meetings of a WRIA planning unit are to be conducted as open public meetings. Some time must be set aside at the end of each meeting of a planning unit for public comments. The objective of a planning unit is to reach agreement, and its procedures for decision-making

are to provide that making decisions by two-thirds majority voting will be used only if achieving full agreement has not been successful.

**Contents of the Plan.** Each plan must include: an assessment of water supply and use in the WRIA; an identification of the water needed collectively for future uses; a quantitative description of the groundwater and surface water available for further appropriation; strategies for increasing water supplies in the WRIA; an identification of areas that provide for the recharge of aquifers from the surface and areas where aquifers recharge surface bodies of water; and an identification of areas where voluntary water-related habitat improvement projects or voluntary transactions providing for the purchase of such habitat or easements would provide the greatest benefit to water-related habitat in the WRIA, and a prioritization of the areas based on their potential for providing such benefits. A planning unit cannot set instream flows for the main stem of the Columbia River or the Snake River. It has the authority to set instream flows on other rivers and streams and to set levels for lakes in its planning area only by a unanimous recorded vote of all voting members. Instream flows established by the plan replace those set by the DOE. The planning unit may recommend instream flow and lake levels by two-thirds majority vote.

**Plan Approval.** Upon completing a proposed water resource plan for the WRIA, the planning unit must provide notice for and conduct at least one public hearing in the WRIA on the proposed plan. The planning unit then submits the plan to the DOE and to the tribal council of each reservation with territory in the WRIA. The DOE must provide advice about any parts of the plan that are in conflict with state statute or federal law and may provide other recommendations. The WRIA planning unit must consider the recommendations of the DOE and the tribal councils and may alter the plan to respond to the recommendations by a two-thirds majority vote. The WRIA planning unit must approve a water resource plan for the WRIA by a two-thirds majority vote of the members of the planning unit. An approved plan is then submitted to the counties with territory within the WRIA for approval. The legislative authority of each of the counties with territory within the WRIA must provide notice for and conduct at least one public hearing on the WRIA plan. The counties, in joint session, may approve or reject the plan but may not amend the plan.

If the plan is approved by the members of the legislative authorities, the plan is transmitted to the DOE. The DOE must adopt the plan by adopting the portion of the plan composed of rules giving force and effect to the approved WRIA plan. If the DOE finds that a conflict with state statute or federal law has not been removed by the planning unit, the DOE and the planning unit must submit the conflict to mediation. If mediation does not resolve the conflict, the DOE may request the local superior court to rule on the conflicts through a declaratory judgement. A decision of the court is reviewable. Any action taken by a

state agency regarding water resources in a WRIA for which such a plan has been adopted must be taken in a manner that is consistent with the plan.

**Permit Processing Deadline.** If an environmental impact statement (EIS) is not required for an application, the deadline for processing a water right permit application for water in an area for which a WRIA plan has been adopted is 180 days from the date a properly completed application is filed with the DOE. The deadline for processing an application filed after July 1, 1999, for water in an area for which a WRIA plan has not been adopted is one year. These deadlines do not include the time needed to supply information in response to one request by the DOE for additional information. If an EIS must be prepared regarding an application to appropriate water, the DOE must grant or deny the application within 90 days of the date the final EIS is available. The DOE must report to the Legislature by January 1, 1999, on the status of processing applications.

**Funding.** A WRIA planning unit may apply to the DOE for funding assistance for developing a water resource plan for the WRIA. The DOE is to provide a maximum of \$500,000 per WRIA for each planning unit applying in this manner from appropriations made expressly for this purpose. Preference is given to planning units conducting multi-WRIA planning. If a planning unit receives this funding, it must approve a plan for submittal to the counties within four years or the DOE must develop and adopt a plan for the WRIA or multi-WRIA area.

Local government is not liable for participating in this water planning process.

**Storage; General Adjudications.** The development of multipurpose water storage facilities is to be a high priority, and state agencies, local governments, and WRIA planning units must evaluate the potential for and benefits and effects of storage. A WRIA planning unit may request that a general adjudication of water rights be conducted for its WRIA or a portion of its WRIA.

**Water Purveyors.** The authorized uses of an intertie include the exchange of acquired water between public water systems. Interties are no longer prohibited from including the development of new sources of water supply to meet future demand. The DOE may not deny or limit a change-of-place of use for an intertie on the grounds that the holder of a permit has not yet put all the water authorized in the permit to beneficial use. For an intertie to be used as a primary or secondary source of water supply or for the development of new sources to meet future demand, the receiving water systems must make efficient use of existing water supply, and the provision of water must be consistent with local land use plans. A pre-1991 intertie may be used to its full design or built capacity within the most recently approved retail and/or wholesale service area.

If a public water system, federal reclamation project, or irrigation district is providing water under a certificated water right for its municipal, project, or district purposes,

the instantaneous and annual withdrawal rates specified in the certificate are deemed valid and perfected. If any of the provisions of the bill regarding the development, adoption, or effect of WRIA plans, or regarding the permit processing deadlines is vetoed, these provisions regarding interties and water purveyors' rights are null and void.

**Relinquishment.** A water right is not relinquished for nonuse if the right is claimed for a determined future development that takes place at any time within a 15-year period from the date of the most recent beneficial use of the right. A water right is not relinquished for nonuse if the nonuse is the result of water efficiency or the result of processing a transfer of a water right to use by a public water supplier for municipal purposes.

**General Permits.** The DOE is directed to develop a streamlined, general permit system for certain uses of water. The use must consume less than 5,000 gallons of water per day. Water diverted from a stream or drawn from an aquifer must, following use, be discharged back into or near the point of diversion or withdrawal and, when discharged, must meet state water quality standards. An application for such a permit must be processed within 120 days.

**Appeals.** A party appealing a water quantity decision of the DOE may elect an informal or a formal hearing before the Pollution Control Hearings Board (PCHB). An informal hearing consists of mediation and may include fact finding if a settlement agreement is not reached. After the informal hearing, a person may request a formal hearing by the PCHB or may appeal the water quantity decision directly to the local superior court. An appeal of a water quantity decision to superior court is heard de novo, but in an appeal after an informal hearing by the PCHB, no party may raise an issue that was not raised and discussed as part of the fact finding hearing.

**Transfers.** A change in the place of use, point of diversion, or purpose of use of a water right to allow the irrigation of additional acreage or the addition of new uses may be permitted if the change results in no increase in the annual consumptive quantity of water used under the water right. The "annual consumptive quantity" is the estimated or actual annual amount of water diverted under the water right as that amount is reduced by the estimated annual amount of return flows, averaged over the most recent five-year period of continuous beneficial use of the water right, or, for a groundwater right, averaged over the period of actual use if the period is less than five years.

#### Votes on Final Passage:

House	61	35	
Senate	27	18	(Senate amended)
House			(House refused to concur)
Senate	25	21	(Senate amended)
House	60	38	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed all of the provisions of the bill except the introductory sections of

the watershed planning portion of the bill, a section authorizing the transfer of certain annual consumptive quantities of water, and provisions authorizing local watershed planning units to request general adjudications and making multipurpose water storage facilities a high priority. The introductory sections signed by the Governor: identify the legislative intent for the water resource planning process; provide definitions for the planning portion of the bill; require the opportunity for interest groups to provide input to the planning, require state technical assistance upon request, and prohibit plans from being inconsistent with or duplicative of existing efforts; establish funding limits and priorities for such planning; and limit the liability of units of government participating in the planning process.

#### VETO MESSAGE ON HB 2054-S2

May 20, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054 entitled:

"AN ACT Relating to water resource management;"

Second Substitute House Bill No. 2054 addresses a number of water resource management issues, including watershed planning, storage, adjudications, water purveyors, relinquishment, general permits, water right appeals, and transfers.

I agree with legislative leaders on the need for local watershed planning. The people who live in a particular area should have a strong voice as to how water should be used in their watershed. Sections 101 through 106 set the tone for how we will resolve many of our water problems and I support those sections.

Sections 107 through 116 set out a process for local watershed planning and adoption which does not provide sufficient flexibility to accommodate a wide array of watershed planning needs. The time limits imposed on the Department of Ecology for making decisions on water right applications are unreasonable under current resources available to the Department of Ecology.

Section 202 equates water storage with water conservation and although the two may be related, this definition of water conservation could be problematic in future water rights processing and appeals.

Sections 401 and 402 are null and void because of my actions on sections 107 through 116, but these are important water resource management issues so I will address the issues in these sections. Section 401 makes changes to the intertie statute (RCW 90.03.380) to promote land development, but is not linked to growth management plans or state-approved demand forecasts. The broad language used to grandfather in existing interties would create dormant water rights and excuse these interties from a review to determine potential impacts on other existing water rights as well as instream flows. Section 402 would equate the perfection of a water right to the quantity allocated in a certificate of water right rather than the quantity beneficially used. This would violate a fundamental principle of western water law and the state water code and create great uncertainty in trying to determine what water is available for other water rights, new applications, and the protection of instream resources.

Section 501, without a standard established by the legislature, could allow a water right holder to avoid relinquishment by taking an unlimited amount of time to implement a water conservation project.

## SHB 2059

*Sections 601 through 605 would create a new surface water permit exemption for water uses that consume less than 5,000 gallons per day.*

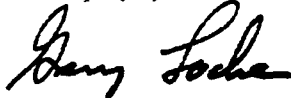
*Sections 701 through 716 would override the existing, well-established and highly functional water right appeals process. These sections could establish a total of four processes to reach a factual decision on the record.*

*Section 802 would amend the ground water code to allow changes to water rights that are already authorized in section 801, which amends the surface water code. The legislature has already recognized that the surface water code, RCW chapter 90.03, applies to the allocation and regulation of ground water. I believe, and the Department of Ecology concurs, that the amendments to RCW 90.03.380 set forth within section 801 apply to ground water rights as well as to surface water rights. To the extent that this is duplicative of the provisions in section 801, section 802, which amends RCW 90.44.100, is unnecessary. Section 802 would also allow the irrigation of additional acreage or the addition of new uses for a quantity of water authorized under a ground water permit that has not yet been put to beneficial use. This is a concept that I am very interested in exploring, and I will be asking for further study and recommendations on this issue in the interim.*

*For these reasons, I have vetoed sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054.*

*With the exception of sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054 is approved.*

*Respectfully submitted,*



Gary Locke  
Governor

## SHB 2059

C 346 L 97

Prohibiting theft of rental property.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives D. Schmidt, Grant, Thompson and Sheldon).

House Committee on Criminal Justice & Corrections  
Senate Committee on Law & Justice

**Background:** A conviction of stealing property valued at over \$1,500 is theft in the first degree or a class B felony; valued at between \$250 and \$1,500 is theft in the second degree or a class C felony; and valued at less than \$250 is theft in the third degree or a gross misdemeanor.

**Expiration of a lease or rental contract.** A person who fails to return rented or leased property within 10 days after receiving a written notice, sent by certified or registered mail, of the expiration of the lease or rental agreement is guilty of a gross misdemeanor. The written notice from the lessor must include a warning that failure to promptly return the leased property within 10 days may result in a criminal prosecution.

The term "lease" under these provisions also includes rental agreements.

**Failure to pay leased or rental payments.** A person is guilty of a class C felony if: the person fails to return rented or leased property valued at over \$1,500 within five days after receiving a written notice, sent by certified or registered mail, from the lessor; or the person has signed an agreement to rent or lease for a period of six months or more and fails to pay the lessor the periodic payments when due for a period of 90 days.

**Summary:** A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented or leased to the person, commits the crime of theft of rental, leased, or lease-purchased property.

The classification of the crime is based upon the replacement value of the item involved in the theft. The crime is: a class B felony if the property is valued at \$1,500 or more; a class C felony if the property is valued at \$250 or more but less than \$1,500; a gross misdemeanor if the property is valued at less than \$250.

The rental or leasing of real property under the Residential Landlord-Tenant Act is specifically excluded from the act's application.

The existing law relating to failing to return leased or rented property and criminal possession of leased or rented property is repealed.

### Votes on Final Passage:

House	96	0	
Senate	42	0	(Senate amended)
House	94	0	(House concurred)

Effective: July 27, 1997

## ESHB 2069

C 259 L 97

Changing school levy provisions.

By House Committee on Appropriations (originally sponsored by Representatives Wensman, Cole, Bush, H. Sommers, Benson, D. Schmidt, L. Thomas, Dyer, B. Thomas, Reams, Doumit, Ballasiotes, Alexander, Hatfield, Lantz, Sullivan, Thompson, Kessler and Butler).

House Committee on Appropriations

**Background: Maintenance and Operations Levies.** Since 1979, there has been a lid on the amount that school districts may levy for maintenance and operations. The Legislature has amended this levy lid numerous times since its inception. The most recent changes occurred in 1993 and 1995.

The 1993 Legislature enacted a two-year temporary levy lid increase, increasing the levy lid from 20 percent to 24 percent, and by 4 percent for districts grandfathered above 20 percent. The 1995 Legislature extended the temporary increase for another two years. This extension expires after calendar year 1997.



**Local Effort Assistance (Levy Equalization).** The 1987 Legislature increased the levy lid from 10 percent to 20 percent and enacted a local effort assistance program to equalize half of the permissible levy. Under this program, the state assists any district requiring a property tax rate for a 10 percent levy which exceeds the state average for a 10 percent levy.

When the initial temporary 4 percent levy lid increase was enacted, the 1993 Legislature also increased levy equalization by 2 percent, subject to funding in the appropriations act. The levy equalization increase was not funded, and it was not continued when the 1995 Legislature extended the 4 percent levy lid increase.

**Summary:** Beginning in calendar year 1998, the levy lid is increased 2 percent. In 1999, the temporary levy lid increase of 4 percent is made permanent. Revenues resulting from policies in this legislation are not part of the state's funding obligation for education. A study of levy equalization provided to low property value school districts will be conducted by the House and Senate fiscal committees. The 25 percent of school districts that must request the highest property tax rates to achieve the same maintenance and operation levy support rate are provided state levy equalization funding to the equivalent of a 12 percent levy to the extent these districts can pass up to a 12 percent levy. Other districts with qualifying local levy effort will be provided the equivalent of a 10 percent levy as in current statute.

**Votes on Final Passage:**

House	86	9
Senate	38	10

**Effective:** July 27, 1997

## 2SHB 2080

### FULL VETO

Regulating classification of lands with long-term commercial significance.

By House Committee on Appropriations (originally sponsored by Representatives Parlette, Reams, Mulliken, Chandler and Boldt).

House Committee on Government Reform & Land Use  
House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** Most property is valued or assessed at its true and fair, or highest and best, value for purposes of imposing property taxes. The state Constitution, however, allows the Legislature to enact legislation assessing certain types of real property at its present or current use for purposes of imposing property taxes. Two programs of current use valuation have been established: one program for forest lands and a second program that includes open space lands, farm and agricultural lands, and timber lands.

Depending on the acreage of the land sought to be classified as farm and agricultural lands, various requirements must be met, including the generation of certain amounts of gross income per acre in three of the last five calendar years. With certain exceptions, lands that are withdrawn from classification as farm and agricultural lands are subject to an additional tax and penalties.

**Summary:** For the purposes of imposing property taxes, a new classification of land as agricultural land with long-term commercial significance is created. To be eligible for the new classification, the lands must be designated agricultural lands under the Growth Management Act and must meet other conditions.

The valuation of agricultural lands with long-term commercial significance equals either: (1) the true and fair value of land as farm and agricultural land; or (2) one-half of the property's true and fair value, whichever is lower.

If the classification of agricultural land as agricultural land with long-term commercial significance is removed, no back taxes, penalties, or interest may be imposed.

**Votes on Final Passage:**

House	98	0	
Senate	45	2	(Senate amended)
House	96	0	(House concurred)

### VETO MESSAGE ON HB 2080-S2

May 19, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Second Substitute House Bill No. 2080 entitled:

"AN ACT Relating to agricultural lands with long-term commercial significance for the production of food or other agricultural products;"

Second Substitute House Bill No. 2080 would have established an additional type of current use valuation for agricultural lands, "Agricultural Lands with Long-Term Commercial Significance."

This would have allowed farmers to discontinue commercial farming and still enjoy the lower taxes associated with agricultural land. If such a land owner were to later withdraw the land from this new classification, the owner would not be subject to paying the back taxes that would otherwise have been paid under a different land classification (as current law requires). In essence this land gives a substantial tax break and encourages farms to be held for speculation and future development, rather than worked.

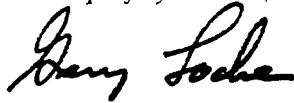
I understand the need to give land owners more choices and rewards in exchange for growth management. However, this statute would establish a bad precedent by allowing a relatively small number of property owners to avoid paying several years of saved taxes, interest on the tax savings, and avoidance of a penalty for early withdrawal if they later develop their agricultural land.

I prefer the favorable treatment agricultural lands receive in sections 31, 32, and 33 of Engrossed Senate Bill 6094 that was recommended by the Land Use Commission.

# SHB 2083

*For these reasons, I have vetoed Second Substitute House Bill No. 2080 in its entirety.*

*Respectfully submitted,*



*Gary Locke  
Governor*

## SHB 2083

C 382 L 97

Authorizing uses for master planned resorts.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Reams, Scott, Buck, Sheldon, Delvin, D. Sommers and Kessler).

House Committee on Government Reform & Land Use  
Senate Committee on Government Operations

**Background:** Under the Growth Management Act (GMA), each county and each city in counties that meet the GMA's requirements adopts a comprehensive plan that includes a list of elements and subjects set forth in the act. Counties and cities must include the following elements and subjects in a comprehensive plan: land use, housing, capital facilities plan, utilities, transportation, provisions designating the five types of critical areas, provisions designating the three types of natural resource lands, the goals and policies of the county's or city's shoreline master program adopted under the Shoreline Management Act, urban-growth area designation, and rural-element designation. A comprehensive plan also may include other elements and matters.

Counties and cities must also adopt development regulations consistent with their comprehensive plan and must designate and protect critical areas, designate and conserve certain natural-resource lands, and designate urban-growth areas. Among other requirements, each urban-growth area must permit urban densities and must include greenbelt and open-space areas. An urban-growth area may include territory that is located outside of a city only if that territory is already characterized by or is adjacent to an area characterized by urban growth or is designated as a new, fully contained community.

Counties that plan under the GMA may also permit master planned resorts to be characterized as urban growth outside of urban-growth areas. A master planned resort means a self-contained, fully integrated, planned, unit development in a setting of significant natural amenities with the primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of facilities. A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

A county may permit master planned resorts as urban growth outside of an urban-growth area if all of the following conditions are met:

(1) the comprehensive plan specifically identifies policies to guide the development of master planned resorts;

(2) the comprehensive plan and development regulations include restrictions that preclude new urban or suburban-land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth;

(3) the county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land;

(4) the county ensures that the resort plan is consistent with the development regulations established for critical areas; and

(5) on-site and off-site infrastructure impacts are fully considered and mitigated.

**Summary:** Counties planning under the Growth Management Act (GMA) may include some existing resorts as master planned resorts under a GMA provision that allows counties to permit master planned resorts as urban growth outside of urban-growth areas. An "existing resort" is a resort that was in existence on July 1, 1990, and developed as a significantly self-contained and integrated development that includes various types of accommodations and facilities.

An existing resort may be authorized by a county if specific criteria, including guiding policies and certain land use restrictions, are met and certain findings on suitability and mitigation of impacts are made.

A county may allocate a portion of its 20-year population projection prepared by the Office of Financial Management to the master planned resort. The allocation must correspond to the projected number of permanent residents within the master planned resort.

### Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 27, 1997

## SHB 2089

### PARTIAL VETO

C 356 L 97

Identifying livestock.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and Honeyford).

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** The state's livestock identification program is administered by the Washington State Department of Agriculture (WSDA). The program includes the registration and recording of brands, the designation of mandatory brand inspection points for cattle and horses, the inspection of cattle and horses for brands and the collection of brand inspection fees, the issuance of certificates identifying individual horses or cattle, and the registration of individual identification symbols for horses. Until July 1, 1997, the WSDA may set the fee for inspecting cattle at a mandatory inspection point at not less than 50 cents per head and not more than 75 cents per head. Beginning July 1, 1997, the fees are set by statute at 60 cents per head. For inspecting horses at these points, the WSDA may set a fee of not less than \$2 per head and not more than \$3 per head until July 1, 1997; thereafter, the fee may be not more than \$2.40 per head.

**Certified Feedlots.** The WSDA also administers a licensing program for feedlots. With certain exceptions, cattle entering or re-entering a certified feedlot must be inspected for brands. Until July 1, 1997, the WSDA may charge a fee of not less than \$500 and not more than \$750 for the annual licensing of a certified feedlot. Beginning July 1, 1997, the licensing fee is set by statute at \$600. A person operating a certified feedlot must also pay a fee for each head of cattle handled through the feedlot. Until July 1, 1997, the WSDA may set the fee at not less than 10 cents per head and not more than 15 cents per head. Beginning July 1, 1997, the fee is set by statute at 12 cents per head.

**Public Livestock Markets.** The WSDA administers a licensing program for public livestock markets. The annual fee for a license to operate a public livestock market is based on the gross sales volume of the market. Until July 1, 1997, the maximum licensing fee ranges from \$150 to \$450. After that date, the fee range is set at \$120 to \$360. Until July 1, 1997, the director of the WSDA may set a minimum daily inspection fee for conducting brand inspections at such a market at not more than \$90. After that date, the minimum daily fee is set at \$72.

**Summary:** The reduction of the following fees is postponed by one year: the fees authorized for inspecting brands at mandatory inspection points; the annual licensing fee for a certified feed lot; the fee on each head of cattle handled through a certified feed lot; the annual licensing fee for a public livestock market; and the maximum daily total that may be charged for brand inspection at such markets.

The current advisory board for the Department of Agriculture's livestock identification program is to provide oversight for the program. The advisory board must receive status and financial briefings regarding the program at least once every two months. The department must

consult the advisory board before hiring or dismissing supervisory personnel.

**Votes on Final Passage:**

House	66	29	
Senate	48	1	(Senate amended)
House	96	1	(House concurred)

**Effective:** July 1, 1997 (Sections 2, 4, 6, 8, & 10)  
July 1, 1998 (Sections 3, 5, 7, 9, & 11)

**Partial Veto Summary:** The Governor vetoed the provisions of the bill regarding the advisory board.

**VETO MESSAGE ON HB 2089-S**

May 14, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute House Bill No. 2089 entitled:

"AN ACT Relating to identification of livestock;"

Substitute House Bill No. 2089 evolved from an ongoing effort among the Washington State Department of Agriculture ("WSDA") and various sectors of the livestock industry to agree on a combination of fees and responsibilities for operating the Livestock Identification Program.

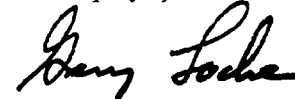
SHB 2089 maintains fees charged by the Livestock Identification Advisory Board at their current level until July 1, 1998. This will allow the parties to continue efforts to resolve their differences and bring a constructive proposal to the 1998 Legislature.

Section 1 of this bill would amend the responsibilities of the Advisory Board. While I agree with most of the proposed changes, one change is not appropriate. That change is the requirement that the WSDA director consult the Advisory Board before hiring or dismissing supervisory personnel. Personnel actions are the purview of agency managers who are legally responsible for the decisions they make, and who must defend any challenges to those decisions. It is an unwarranted and inappropriate intrusion into agency operations for a citizen advisory board to have a statutory role in such decisions.

For this reason, I have vetoed section 1 of Substitute House Bill 2089.

With the exception of section 1, I am approving Substitute House Bill No. 2089.

Respectfully submitted,



Gary Locke  
Governor

**SHB 2090**

C 232 L 97

Establishing a community and technical college employees attendance incentive program.

By House Committee on Higher Education (originally sponsored by Representatives Schoesler, Dyer, D. Sommers, Carrell, Linville, Sterk, Parlette and Doumit).

House Committee on Higher Education  
Senate Committee on Higher Education  
Senate Committee on Ways & Means

**Background:** Most permanent full-time state employees, including employees of the community and technical college system, accrue sick leave at the rate of one day per month. Most of these employees are eligible to participate in the state attendance incentive program, sometimes called the sick leave buy-back program. Through the program, eligible employees are paid for a portion of their unused sick leave. Each January, a participating employee who has accrued 60 or more days of sick leave over his or her career may opt to receive one day's salary for every four days of sick leave accrued during the previous year.

When a participating employee dies or retires, the employee or the employee's estate is paid one day's salary for every four days of unused sick leave. This compensation is subject to federal income taxes. The law establishing the state attendance incentive program could permit participating employees to invest their sick leave compensation in a medical benefit plan instead of receiving a direct payment for it. If an employee opted to put his or her sick leave compensation into a medical benefit plan, the compensation would be exempt from federal income taxes. However, the option to participate in a medical benefit plan has not been implemented for state employees. A possible reason for the decision not to implement the option is that the state law conflicts with rulings of the Internal Revenue Service (IRS). The IRS has issued a letter ruling that requires all employees in a unit to participate in the benefit plan in order for any participant to enjoy the federal tax exemption. Washington's law requires agencies to give employees a choice of whether to participate.

Employees of the K-12 system may participate in a medical benefit option for retiring employees. A number of school districts have implemented this option for their retiring employees.

**Summary:** Certain employees of the community colleges, technical colleges, and the State Board for Community and Technical Colleges are removed from the attendance incentive program for state employees. Eligible employees will participate in an attendance incentive program that is identical in most respects to the state employee attendance incentive program. Eligible employees include members of the faculties and exempt staff from any community college or technical college and technical college classified staff. Exempt employees of the State Board for Community and Technical Colleges are also eligible to participate. In order to participate in the attendance incentive program, college and state board employees must meet the same requirements as other state employees. Most classified staff are not eligible to participate in this attendance incentive program. They must remain in the program for state employees.

Through the attendance incentive program, participating employees may receive compensation for unused sick leave. Each January, a participating employee who has accrued 60 or more days of sick leave over his or her career may opt to receive one day's salary for every four days of sick leave accrued during the previous year. When a participating employee dies or retires, the employee or the employee's estate will be paid one day's salary for every four days of unused sick leave. Any compensation or benefits received under this program will not be included in salary calculations for the state retirement systems.

There is one major difference between the state employee attendance incentive program and this program. Instead of receiving compensation for their unused sick leave, retiring eligible employees of the colleges and the state board may choose to participate in a medical benefit plan that differs from the plan available to state employees.

For employees who bargain collectively, a medical benefit plan option may not be implemented unless it is bargained for the entire bargaining unit. The employer may institute a medical benefit plan option for all exempt employees. Participating employees must sign an agreement with their employers. The agreement must include provisions covering possible tax liabilities. The agreement must also include a provision requiring any employee in a unit that is covered by a medical benefit plan option to participate in the plan or forfeit any compensation for unused sick leave.

The state board will adopt rules for the attendance incentive program. The rules will require colleges to maintain accurate sick leave records for all employees. The rules also will define categories of employees eligible to participate in the program. The Office of Financial Management must approve the employee categories.

If any part of the medical benefit option permitted in this act conflicts with federal tax laws or with the rulings of the IRS, the conflicting provisions in this act will be inoperable.

**Votes on Final Passage:**

House	96	0
Senate	36	0

**Effective:** July 27, 1997

**HB 2091**  
**FULL VETO**

Allowing counties planning under the growth management act to establish industrial land banks as permissible urban growth outside of an urban growth area.

By Representatives Cairnes, Gardner, Linville and Reams.

House Committee on Government Reform & Land Use  
Senate Committee on Government Operations

**Background:** Under the Growth Management Act (GMA), each county and each city in counties that meet the GMA's requirements adopts a comprehensive plan that includes a list of elements and subjects set forth in the act. Counties and cities must include the following elements and subjects in a comprehensive plan: land use, housing, capital facilities plan, utilities, transportation, provisions designating the five types of critical areas, provisions designating the three types of natural resource lands, the goals and policies of the county's or city's shoreline master program adopted under the Shoreline Management Act, urban growth area designation, and a rural element designation. A comprehensive plan also may include other elements and matters.

Counties and cities must also adopt development regulations consistent with their comprehensive plan and must designate and protect critical areas, designate and conserve certain natural resource lands, and designate urban growth areas. Among other requirements, each urban growth area must permit urban densities and must include greenbelt and open space areas. An urban growth area may include territory that is located outside of a city only if that territory is already characterized by or is adjacent to an area characterized by urban growth or is designated as a new, fully contained community.

Counties planning under the GMA may establish a process for reviewing and approving proposals to site specific major industrial developments outside urban growth areas. Major industrial development means a master planned location for a specific business that requires a parcel of land so large that either no land is available within an urban growth area or the development is of a natural resource-based industry requiring a location near agricultural, forest, or mineral resource land.

The major industrial development is not for retail commercial development or multi-tenant office parks. The development may be approved outside an urban growth area in a GMA county if certain criteria are met.

In addition to specific major industrial developments, urban industrial land banks may be designated for major industrial activity outside urban growth areas. A county planning under the GMA that has a population greater than 250,000 and that is part of a metropolitan area that includes a city in another state with a population greater than 250,000 may establish a process for designating banks of no more than two master planned locations.

A master planned location may be included in the industrial land bank if certain criteria are met. Priority is given to locations that are adjacent to, or in close proximity to, urban growth areas. Land banks are not for retail commercial development or multitenant office parks.

**Summary:** The GMA's provisions relating to urban industrial land banks are amended. Any county planning under the Growth Management Act (GMA) may establish

a process for designating and determining the allowed uses within industrial land banks. Industrial land banks may be established as urban growth outside of urban growth areas if certain criteria are met. A county may not designate more than two noncontiguous land bank locations, but each location may include multiple development sites.

An industrial land bank is defined as a location designated for one or more manufacturing, industrial, commercial, or high-tech businesses, and related office uses. The industrial land bank cannot be for the purpose of retail commercial development or multiple tenant office parks.

An industrial land bank may be designated at either of two locations: (1) a unique location or a location with unique physical characteristics; or (2) a location already characterized by some existing industrial or commercial development.

To designate an industrial land bank characterized by a unique location or a location with unique physical characteristics, the county must find that the location of the bank is unique or characterized by unique physical characteristics such as size or proximity to transportation, natural resources, or related industries, and that the necessary infrastructure to support the industrial land bank is available or can be provided by private or public sources. The requirements for designation of an industrial land bank characterized by a unique location are expanded; mitigation of transportation and environmental impacts is required, and the development must relate to the unique location or characteristics that were the basis for designation of the bank.

To designate an industrial land bank already characterized by some existing industrial or commercial development, the county must find that (1) after an inventory, no suitable location for the land bank is available within an existing urban growth area; (2) the industrial land bank is important to achieve documented state or county economic development goals; (3) the necessary infrastructure is available or can be provided in a timely manner; and (4) the industrial land bank location is characterized by some existing industrial or commercial development or is adjacent to an area characterized by that development.

A development proposal within either type of industrial land bank may be approved if adequate infrastructure is provided or applicable impact fees are paid, or both. A county must also assure that transportation impacts are mitigated. Buffers are to be provided between the industrial land bank and adjacent nonurban area. Environmental impacts must be mitigated in accordance with the State Environmental Policy Act (SEPA) and the GMA, and adverse impacts on designated agricultural, forest, and mineral resource lands must be mitigated. Comprehensive plan policies and development regulations must be established to ensure that urban growth will not occur in adjacent nonurban areas. Once an industrial land

bank has been approved, development that qualifies as an allowed use and that the county determines meets the necessary requirements may be located there.

Counties planning under the GMA may designate an industrial land bank on the land use map when the comprehensive plan is being adopted or as an amendment to the final comprehensive plan. Inclusion or exclusion of industrial land bank locations may be considered at any time.

These new requirements do not alter a counties responsibility to comply with SEPA.

**Votes on Final Passage:**

House	92	0	
Senate	39	10	(Senate amended)
House	64	34	(House concurred)

**VETO MESSAGE ON HB 2091**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 2091 entitled:

“AN ACT Relating to industrial land banks;”

House Bill No. 2091 would allow counties, after consulting with cities (but not necessarily obtaining their consent) and amending their comprehensive plans, to designate up to two sites outside existing urban growth areas for use by industrial, manufacturing, commercial, or high technology businesses.

I am concerned that the bill does not require the consent of cities in the county decision-making process. The impacts of establishing an industrial land bank are potentially too significant to not require the agreement of cities. I am also concerned that no size limitations were place upon the industrial land banks.

I agree with the concept of industrial land banks as an additional economic development tool under the Growth Management Act. I look forward to working with the legislature and with interested parties to address my concerns during the next legislative session.

For these reasons, I have vetoed House Bill No. 2091 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**EHB 2093**

C 16 L 97

Achieving consistency between state and federal family leave requirements.

By Representatives Boldt, McMorris, Lisk, Clements and Honeyford.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background: State family leave law.** In 1989, the state family leave law was enacted. The family leave law applies to employers of 100 or more employees and to all state government employers. The law entitles a covered employee to up to 12 work weeks of unpaid family leave during any 24-month period to care for the employee’s newborn child or adopted child under the age of six, or to care for the employee’s terminally ill child who is under age 18.

An employee must give 30 days’ written notice of his or her plan to take family leave except in specified circumstances when notice must be given as soon as possible. On return from leave, the employee is entitled to the same employment position as he or she held when leave commenced or to a position with equivalent benefits and pay at a workplace within 20 miles of the original workplace.

This leave is in addition to leave for sickness or temporary disability related to pregnancy or childbirth. Under Washington’s Law Against Discrimination, the Human Rights Commission has adopted a rule requiring employers to grant a woman a leave of absence for the actual period of time that she is sick or temporarily disabled because of pregnancy or childbirth, with some exceptions related to business necessity. Generally, an employer’s policy on leave for disability must treat pregnancy and childbirth the same as other disabilities.

If the family leave entitlements are violated, the employee may file a complaint with the Department of Labor and Industries. The department may issue a notice of infraction and employers found to have committed an infraction are subject to a penalty of up to \$200 for a first offense and up to \$1,000 per infraction for continuing to violate the family leave law. If an employer fails to reinstate an employee, reinstatement may be ordered with or without back pay.

**Federal family and medical leave law.** The federal Family and Medical Leave Act was enacted in 1993. The federal law applies to employers of 50 or more employees and entitles employees to up to 12 weeks of unpaid leave in any 12-month period. Employees may take leave to care for the employee’s newborn child or adopted child under age 18 or to care for a spouse, child, or parent with a serious health condition, or because of the serious health condition of the employee that makes the employee unable to perform his or her job. “Serious health condition” includes any period of incapacity due to pregnancy or prenatal care. Special leave rules apply to certain educational employees.

The employee must provide 30 days’ notice when the leave is foreseeable. On return from leave, an employee generally is entitled to be restored to the same employment position as he or she held when leave commenced or to a position with equivalent pay and benefits. Rules adopted to implement the federal law require the employee to be reinstated to the same or a geographically proximate worksite.

The U.S. Department of Labor is authorized to investigate complaints and bring actions in court to recover damages for violations. Employers are liable for wages lost by the employee or actual monetary damages, and double damages may be awarded. Employees may be ordered reinstated. Employees may also file civil actions to recover these damages.

Under the federal law, a state law that provides greater family or medical leave rights is not superseded by the federal law.

**Summary:** The Department of Labor and Industries is directed to cease administration and enforcement of the state family leave law until the earlier of the following dates:

- the effective date of repeal of the federal family and medical leave law; or
- July 1 of the year following the year that the federal family and medical leave law is amended to provide less leave than the state law. In determining whether the federal law provides the same or more leave, the department must only consider whether: (1) the total period of leave under the federal law is 12 or more weeks in a 24-month period; and (2) whether the types of leave under the federal law are similar to the types of leave under the state law.

Two requirements under the state family leave law will continue to be enforced, however. First, an employee's right, upon returning from leave, to be returned to a workplace within 20 miles of the original workplace remains in effect. Second, the family leave entitlement under federal law is in addition to leave for sickness or temporary disability because of pregnancy or childbirth. These requirements will be enforced as provided under the state family leave law, except that an employer receiving an initial notice of infraction will have 30 days to take corrective action and no infraction or penalty may be assessed if the employer complies with the requirements of the initial notice.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** July 27, 1997

**ESHB 2096**

C 449 L 97

Consolidating the state's oil spill prevention program.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler and K. Schmidt).

House Committee on Agriculture & Ecology  
 House Committee on Appropriations  
 Senate Committee on Agriculture & Environment  
 Senate Committee on Ways & Means

**Background:** In 1991, the Legislature enacted comprehensive oil spill prevention and response legislation. The 1991 legislation imposed two new taxes on the privilege of receiving crude oil or petroleum products at a marine terminal. The oil spill response tax is levied at a rate equal to 2 cents for each barrel. The oil spill administration tax is levied at a rate of 3 cents per barrel. A "barrel" equals 42 gallons of crude oil or petroleum product. The tax is not applicable to oil or other petroleum products that are subsequently exported. The administrative account is used for administrative expenses incurred in carrying out the oil spill prevention, planning, and some response activities. The response account is used for state agency costs in responding to spills where the expense is expected to exceed \$50 thousand. Both accounts are subject to appropriation.

The oil spill response tax is suspended if the response account exceeds \$25 million. Once suspended, the tax cannot be reimposed until the account drops below \$15 million. The oil spill administration tax is also suspended if the response account exceeds \$25 million and the administration account has a fund balance that is greater than the unspent appropriation remaining in the account. Funds from the oil spill administration account must be transferred to the oil spill response account if there is a fund balance in the administration account at the end of each biennium. To date, the administration account has not had a fund balance at the end of the biennium.

The 1991 legislation created the Office of Marine Safety (OMS). The administrator of the office is appointed by the Governor. The office has responsibility for regulating oil tankers and other vessels for the purpose of preventing oil spills. The Department of Ecology (DOE) has authority for land-based oil facilities and spill response. The 1991 legislation included a provision that transfers the OMS into the DOE as of July 1, 1997.

The 1991 legislation required three state agencies to report on using tax credits to encourage the marine oil transportation industry to use certain technology and practices to reduce the risk of oil spills. The study was submitted to the Legislature in 1993.

**Summary:** Legislative intent is established that the director of the Department of Ecology (DOE) is to consolidate all oil spill prevention, planning, and response activities of the two agencies into one division within the department, that the division be managed by a single administrator with assistant director status, that prevention activities be managed as a separate program within the division, and that the division be sufficiently funded. All employees of the Office of Marine Safety (OMS) are transferred to the DOE. All civil service employees transferred to the DOE

## SHB 2097

are to perform the same duties as performed with the OMS.

The rates of the barrel taxes are changed. Four cents per barrel is deposited into the administration account and 1 cent per barrel into the response account. The 1 cent tax is suspended when the response account exceeds \$10 million and is reimposed when the account falls below \$9 million. The provision allowing suspension of the 4 cents per barrel administration tax is made consistent with the \$10 million limit on the response account. Any fund balance in the oil spill administration account at the end of a biennium remains in the account. Dated language regarding the tax credit study is deleted.

An oil spill prevention and response advisory committee is created within the department. The committee consists of legislators and representatives of the marine transportation industry, pilots, the fishing industry, the shellfish industry, an environmental organization, and the department. By December 1, 1998, the committee shall submit a report to the Legislature evaluating the merger of the OMS into the DOE.

### Votes on Final Passage:

House	77	21	
Senate	45	2	(Senate amended)
House	97	0	(House concurred)

Effective: July 1, 1997

## SHB 2097

C 317 L 97

Regulating the investment practices of insurance companies.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative L. Thomas).

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** The Office of Insurance Commissioner oversees the corporate and financial activities of insurance companies. All companies authorized to conduct insurance operations in Washington must meet statutory requirements for capital, surplus capital, reserves, investments, and other financial and operational considerations.

Allowable investments of insurance companies are regulated by statute and rule. For instance, insurance companies may not have investments or loans with one person, corporation, institution, or municipal corporation exceeding 4 percent of total assets, except for general obligations of states, the federal government, or certain foreign obligations. Insurance companies may invest up to 10 percent of their assets in corporate stocks. Generally, an insurance company may not have more than 10 percent of its assets in ownership of its home office and

other offices or buildings without the approval of the insurance commissioner. The type of investments allowed for capital and reserves is limited, and certain investments are prohibited.

A derivative is a financial agreement that has its value based on, or derived from, some underlying index or financial asset, such as interest rates, currencies, stock prices, or commodities. Typically, derivatives are used to hedge risks, but derivatives, especially exotic or unusual derivatives, can be used for speculation. The value of the underlying asset is called the notional amount. The major types of derivatives, which can be combined to create more complicated derivatives, include forwards and futures, options, and swaps.

**Summary:** An insurance company may engage in derivative transactions if specific conditions are complied with; derivatives may not be used for speculative purposes. The primary purpose of derivatives used by insurance companies must be to hedge risk. The insurer must demonstrate to the insurance commissioner the intended hedging characteristics of the derivative and its ongoing effectiveness in that regard. An insurer may use derivatives for income generation in some limited circumstances. The insurance commissioner is authorized to adopt rules regarding the use of derivatives by insurance companies.

### Votes on Final Passage:

House	81	15	
Senate	45	0	(Senate amended)
House			(House refused to concur)

### Conference Committee

Senate	44	0
House	79	9

Effective: July 27, 1997

## HB 2098

C 110 L 97

Making longshore and harbor workers' compensation insurance available.

By Representative L. Thomas.

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** Federal law requires that employers of longshore and harbor workers obtain workers' compensation coverage for their employees. Longshore and harbor workers are not eligible for coverage under the Washington state workers' compensation insurance program.

The Legislature adopted a temporary insurance plan in 1992 to provide insurance for those employers unable to obtain coverage in the private market for their longshore and harbor workers. This state plan, called the United



States Longshore and Harbor Workers Assigned Risk Plan, was extended for two years in 1993 and again in 1995. Under the plan, all insurers writing longshore and harbor workers' compensation insurance and the state Department of Labor and Industries' workers' compensation fund participate in underwriting the losses for this coverage. Liability for plan losses is split equally between private insurers writing longshore and harbor workers' compensation insurance and the state workers' compensation fund. Premiums are not paid to the state workers' compensation fund for this potential liability. The state workers' compensation fund is authorized to reinsure the longshore and harbor workers' plan.

The program is scheduled to expire July 1, 1997.

**Summary:** The expiration of the United States Longshore and Harbor Workers Assigned Risk Plan is repealed. The program is continued indefinitely.

The governing committee of the plan determines underwriting losses and surpluses, which are shared by the plan's participants (half to private insurers involved in the plan and half to the state workers' compensation fund).

**Votes on Final Passage:**

House	96	0
Senate	43	4

**Effective:** April 21, 1997

**HB 2117**  
**FULL VETO**

Lowering the rate of taxation for social card games.

By Representatives McMorris and Conway.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor  
Senate Committee on Ways & Means

**Background:** A cities, county or town may tax gross revenue generated by social card games that operate within their jurisdiction. The maximum tax rate that may be imposed is 20 percent. Not all local jurisdictions that allow social card game activity tax at the maximum rate.

**Summary:** The maximum tax rate that a local government may impose on gross revenue generated by social card games is reduced from 20 percent to 10 percent.

**Votes on Final Passage:**

House	85	11
Senate	42	5

**VETO MESSAGE ON HB 2117**

May 20, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 2117 entitled:

"AN ACT Relating to taxation of gambling activities;"

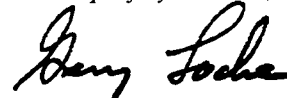
House Bill No. 2117 would cut the maximum rate of tax that a county or city may impose on social card games from twenty percent to ten percent of gross revenue.

The state's gambling laws authorize certain forms of gambling in any locality in which the local government authorizes the activity. Local governments are also given flexibility to tax these activities up to an authorized maximum level. In the case of social card games, that maximum level is twenty percent of gross revenues. Few local governments impose the maximum tax. However, several counties and cities do impose this tax at a rate higher than ten percent. For those local governments, this bill would cause a serious decrease in tax revenues at a time when local governments are facing enormous fiscal challenges.

Although the maximum authorized tax rate of twenty percent is high, the card room industry should be able to increase revenues by taking advantage of the opportunity to offer house-banked card games, authorized by Substitute Senate Bill No. 5560, which I recently signed into law. The opportunities presented by SSB 5560 should more than offset any tax reductions that would result from the enactment of this bill. Furthermore, it is important that local governments be provided the flexibility to address gambling issues at the local level keeping in mind the particular character of the local populations they serve.

For these reasons, I have vetoed House Bill No. 2117 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**ESHB 2128**  
**C 318 L 97**

Stating how a state officer or employee may receive a contract or grant in compliance with the ethics code.

By House Committee on Government Administration (originally sponsored by Representatives Sheahan, Appelwick, Cooke, Radcliff, Dyer, Cooper, Schoesler, Costa, D. Schmidt and Anderson).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** In 1994 the Legislature enacted the State Ethics Act. This act prescribes ethical standards for state officers and employees.

State officers and employees are prohibited from receiving anything of economic value under any contract outside of his or her official duties unless certain conditions have been met. These conditions are (1) the contract must be bona fide and actually performed; (2) the performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision; (3) the performance of the contract or grant is not prohibited by laws or rules governing outside employment; (4) the contract or grant is neither performed nor compensated by a person who is prohibited by law from furnishing a gift to the officer or employee; (5) the con-

tract or grant would not result in the disclosure of confidential information; and (6) the contract or grant is not expressly created or authorized by the officer or employee in his or her official capacity or by his or her agency.

In addition to satisfying all the requirements for outside employment, a state officer or employee may have a beneficial interest in a contract or grant only if it was awarded through an open competitive bidding process, or it was not awarded through an open competitive bidding process, but the officer or employee was advised by the appropriate ethics board that the contract or grant would not create a conflict of interest.

Circumstances arise when a state officer or employee wishes to perform a contract or grant that is not created or authorized under the official capacity of the officer or employee, but the officer or employee is prohibited from performing the contract or grant because the officer's or employee's agency authorized it.

**Summary:** The limitation on outside employment by state officers and employees is modified so that a contract or grant may be performed by an officer or employee of the agency authorizing the contract or grant, but the contract or grant cannot be expressly created or authorized by the officer or employee acting in his or her official capacity.

In addition to satisfying the requirements for outside employment, a state officer or employee may have an interest in a series of substantially identical contracts or grants if it is either awarded through an open competitive bidding process or the appropriate ethics board advises that the contracts or grants do not create a conflict of interest.

**Votes on Final Passage:**

House	94	0	
Senate	45	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** July 27, 1997

**EHB 2142**

C 111 L 97

Regulating assignment rights of lottery winnings.

By Representatives Lisk, Cole and Honeyford.

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** Lotto jackpot winners receive their prize payments in annual installments paid over a period of 20 years. In 1996, Lotto winners were given the authority to assign their right to receive their annual payments to a third party for a lump sum cash payment. This right to assign Lotto winnings is contingent upon a ruling from the Internal Revenue Service (IRS) that voluntary assignment

will not affect the federal income tax treatment of those winners who do not assign their rights.

Lotto winners who wish to assign the right to receive annual prize payments must seek an order from superior court allowing the assignment. The order must be based on findings that the prize winner has had the opportunity to be represented by legal counsel, has received independent financial and tax advice, and is not acting under duress.

In July 1996, the IRS issued a private letter ruling that left open the possibility of adverse tax consequences to those winners who do not assign their right to receive prizes payments. A winner pays federal tax on the amount of the prize that he or she receives each year. A winner who assigns his or her right to receive prize payments and receives a lump sum cash payment must pay tax on the amount of the lump sum payment. A winner, having the option to convert the annual payments to a lump sum cash payment, may be treated by the IRS as having received the full value of the prize on which tax is due, whether he or she chooses to exercise the option or not. If the IRS finds there is a ready market for purchasing lotto prizes, the IRS may treat all winners for tax purposes as if they have assigned their prizes, including current and past winners.

Based on the IRS private letter ruling, the Lottery Commission has objected to processing requested assignments. The court has approved a number of assignments and the commission has appealed the court's orders.

**Summary:** Lotto prize winners are given expanded authority to assign a portion of their remaining prize payments to a third party as well as continued authority to assign all remaining payments.

In addition to the findings that a court must now make when approving an assignment of the right to receive prize payments, the court must find that the following information has been disclosed to the prize winner: the payments being assigned by amount of payment and payment date; the purchase price or loan amount being paid; the interest or discount rate used to arrive at the present value of the prize; and the amount, if any, of origination or closing fees charged to the prize winner. The disclosure statement must also advise the prize winner that he or she should consult with and rely on independent legal or financial advice regarding federal tax consequences of the assignment.

Voluntary assignments will not be allowed if, at any time, the IRS or a court issues a determination letter, revenue ruling or other public ruling to any state lottery or lottery prize winner that the voluntary assignment will affect the federal tax treatment of prize winners who do not assign their prizes. The Director of the Lottery Commission must file a copy of the letter or ruling with the Secretary of State.

Assignments that were validly made before any ruling that ceases the authority for voluntary assignments remain valid and effective.

**Votes on Final Passage:**

House 94 0  
Senate 47 0

**Effective:** April 21, 1997

**HB 2143**

C 65 L 97

Concerning volunteer ambulance personnel.

By Representatives Parlette and Chandler.

House Committee on Government Administration

Senate Committee on Government Operations

**Background:** Any city or town may adopt a resolution by a two-thirds vote of its full legislative body authorizing any of its members to serve as volunteer fire fighters or reserve law enforcement officers and receive the same compensation, insurance, and other benefits other volunteers or reserve officers receive.

**Summary:** Any city or town is authorized to adopt a resolution by a two-thirds vote of its full legislative body authorizing any of its members to serve as volunteer ambulance personnel and receive the same compensation, insurance, and other benefits as other volunteers.

**Votes on Final Passage:**

House 96 0  
Senate 43 0

**Effective:** July 27, 1997

**SHB 2149**

C 233 L 97

Modifying licensing provisions for a dungeness crab-Puget Sound fishery license.

By House Committee on Natural Resources (originally sponsored by Representatives Linville, Buck, Regala, Gardner, Kessler and Anderson).

House Committee on Natural Resources

Senate Committee on Natural Resources & Parks

**Background:** The Puget Sound Dungeness crab fishery is subject to limited entry requirements. To renew a Dungeness crab Puget Sound license, a person must have held the license during the prior year and have harvested at least 1,000 pounds of crab in the fishery over the past two seasons.

Rules adopted by the Department of Fish and Wildlife restrict the total number of pots fished from a vessel to 100 when fishing for Dungeness crab in Puget Sound.

This provision applies regardless of the number of license-holders on the vessel.

**Summary:** The catch requirements for renewing a Puget Sound Dungeness crab license are eliminated. A person who has two Dungeness crab Puget Sound licenses may operate the licenses if the vessel owner or alternate operator is on board the vessel. The department must allow a license-holder to operate up to 100 crab pots per each license.

**Votes on Final Passage:**

House 96 0  
Senate 46 0

**Effective:** July 27, 1997

**HB 2163**

C 234 L 97

Clarifying the requirements for a veterans or military personnel remembrance emblem.

By Representatives Sheldon, Conway, Sehlin, Zellinsky, K. Schmidt, D. Sommers, Veloria, Huff, D. Schmidt, Johnson, Lantz, Sullivan, Koster, Pennington, Smith, Costa, Cairnes, Reams, Robertson and Hatfield.

House Committee on Transportation Policy & Budget

Senate Committee on Transportation

**Background:** Upon payment of a \$10 fee, a person who has been honorably discharged or is serving on active duty in the U.S. military may be issued a package of veteran license plate emblems. Each package contains one veteran emblem, one American flag emblem, and one campaign emblem.

Examples of the campaign ribbon remembrance emblems include the World War II victory medal, the Korean service medal, the Vietnam service medal, and the Desert Storm medal. The director of the Department of Licensing may issue additional campaign emblems by rule, as authorized by the U.S. Department of Defense. In lieu of a campaign emblem, the veterans or military personnel who have not served during periods of war or armed conflict may be issued an additional flag emblem.

Veterans or military personnel requesting veteran license plate emblems must provide a copy of their discharge papers or military orders indicating their military status and the campaign ribbon awarded. Applicants often fail to bring this documentation with them when they register their vehicles.

Two dollars of the \$10 veteran license plate emblem fee is paid to the county treasurer. The remaining \$8 goes to the Department of Veterans Affairs for projects that pay tribute to veterans. For instance, the monies may be used to preserve and operate existing memorials, as well as for planning, acquiring land, and constructing future memorials.

## HB 2165

**Summary:** Veterans or active duty military personnel requesting veteran license plate emblems may show proof of eligibility by: (1) providing discharge papers; (2) providing a copy of orders awarding a campaign ribbon; or (3) by attesting in a notarized affidavit of their eligibility.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** July 27, 1997

## HB 2165

C 436 L 97

Paying interest on retroactive raises for ferry workers.

By Representatives K. Schmidt, Zellinsky, Fisher, Morris, Radcliff, Sehlin, Sheldon and Hatfield.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** During the 1995 session, the Legislature enacted a 4 percent salary increase for state employees, including employees of the Washington State Ferry System. According to that legislation, the raises were to go into effect on July 1, 1995.

Because of delays in ratifying collective bargaining agreements with the various ferry employee labor unions, some ferry workers did not begin to receive their salary increase on July 1, 1995. However, as of December 1996, all 13 ferry employee labor unions had ratified their contracts. Although these employees have received the legislatively appropriated salary increase retroactively, there is no mechanism for receiving the interest accrued on the salary dollars while the funds were held in the state treasury pending ratification of the collective bargaining agreements.

**Summary:** Subject to legislative appropriation, ferry employees are entitled to the interest earned on retroactive compensation increases. The interest, which must be based on the interest rate earned by the State Treasurer, is computed for each employee until the date the retroactive compensation is paid. The interest payments are not included for purposes of calculating retirement allowances.

**Votes on Final Passage:**

House	96	0	
Senate	45	1	(Senate amended)
House	96	0	(House concurred)

**Effective:** July 27, 1997

## ESHB 2170

C 369 L 97

Expediting projects of state-wide significance.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Pennington, Sheldon and Ogden).

House Committee on Trade & Economic Development  
House Committee on Appropriations  
Senate Committee on Commerce & Labor

**Background:** Major industrial investments can have a significant impact on a city's or a county's regulatory process and economic well-being. State recognition of and assistance with major industrial investments or economic development projects can expedite completion of such projects.

**Summary:** A process to expedite the development of industrial projects of statewide significance is created. Cities and counties that have comprehensive plans may, at their option, develop a process to expedite the review, approval, permitting, and completion of projects of statewide significance.

An industrial project of statewide significance is defined as either a border crossing project that involves both private and public investments or a private capital investment in manufacturing or research and development. The capital investment requirements are based on the size of the county where the project is located. The capital investment requirements range from \$20 million for a project located in a county with a population of 20,000 or less, to \$1 billion for a project located in a county with a population greater than one million. The director of the Department of Community, Trade, and Economic Development (CTED) may designate a project that does not meet the state requirements as an industrial project of statewide significance if: (1) the project is located in a distressed area and the economic circumstances of the county merit the additional assistance; or (2) the impact on the region, due to project size and complexity, merits such designation.

The DCTED must assign an ombudsman to each project of statewide significance. The ombudsman assembles a team of state, local government, and private officials to help meet the project's planning and development needs. Members of the team include those with responsibility over planning, permitting and licensing, infrastructure development, work force development services, transportation services, and the provision of utilities for the specific project of statewide significance.

The Work Force Training and Education Coordinating Board must revise its comprehensive plan for work force training and education to address how the state's work force development system will meet the employer hiring needs for industrial projects of statewide significance.

The Higher Education Coordinating Board must revise its comprehensive plan for higher education policy to include how the state's higher education system can meet employer hiring needs for industrial projects of statewide significance.

The Department of Ecology (DOE) must revise its various planning documents to address how it will expedite the completion of industrial projects of statewide significance. The DOE and appropriate local government must also include in the master programs, adopted under the Shorelines Management Act an economic development element for the location and design of industrial projects of statewide significance.

As part of its state transportation policy plan, the Department of Transportation must address how it will meet the transportation needs and expedite the completion of industrial projects of statewide significance.

The State Board of Education may provide additional state assistance to school districts that face a special school housing burden because of the development of industrial projects of statewide significance in their boundaries.

**Votes on Final Passage:**

House	98	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** July 27, 1997

## SHB 2189

C 383 L 97

Creating a task force to study alternative financing techniques for the development and renovation of low-income senior housing development.

By House Committee on Trade & Economic Development (originally sponsored by Representatives McDonald, Van Luven, Veloria and Cooke).

House Committee on Trade & Economic Development  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** In the 1960s, several federal programs were created to assist in the development or preservation of housing for seniors or persons with disabilities. These programs either provided direct funds or mortgage insurance to finance the construction or renovation of rental housing. Many of these developments are now in need of renovation or repairs, including upgraded kitchen units, installation of sprinkler or fire suppression systems, new electrical and plumbing work, new elevators, and upgraded water and sewer systems. Reductions in federal funding have limited efforts to finance these improvements.

**Summary:** The Task Force on Financing Senior Housing and Housing for Persons with Disabilities is created. The task force consists of 13 members with representation from public and private sector organizations involved in the provision of senior housing and housing for persons with disabilities. The task force members include: (1) the director of the Department of Community, Trade and Eco-

conomic Development; (2) the executive director of the Washington State Investment Board; (3) the executive director of the Washington State Housing Finance Commission; (4) four representatives from organizations involved in the management of senior housing developments, one representing owners of senior housing developments; (5) three representatives from financial institutions, one representing an investment and banking firm involved in financing federally insured senior housing developments; (6) one representative of a mobile home owners' association that represents seniors; (7) one representative of a mobile home park owners' association and (8) one representative from a public housing authority. The director of the Department of Community, Trade, and Economic Development must appoint the members of the task force and is the chair of the task force.

The task force is authorized to: (1) review financing needs of low income senior housing and housing for persons with disabilities; (2) review existing federal and state programs and incentives for the construction or renovation of senior housing and housing for persons with disabilities; (3) review programs and techniques in other states and countries for the construction or renovation of senior housing and housing for persons with disabilities; and (4) make recommendations on possible state financing techniques to assist in the construction or renovation of senior housing and housing for persons with disabilities. The task force must prepare and submit a report to the Senate Committee on Financial Institutions, Insurance and Housing and the House of Representatives Committee on Trade and Economic Development with its finding and recommendations by December 15, 1997.

The Department of Community, Trade and Economic Development, the Washington State Investment Board, and the Washington State Housing Finance Commission must provide administrative and clerical assistance to the task force. The task force expires February 1, 1998.

**Votes on Final Passage:**

House	96	0	
Senate	42	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 27, 1997

## ESHB 2192

C 220 L 97

Financing a stadium and exhibition center and technology grants.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Van Luven and Wolfe; by request of Governor Locke).

House Committee on Trade & Economic Development

**Background:** In the United States, 105 baseball, football, basketball and hockey teams exist at the major league

level. Because some teams play in multi-purpose facilities, these 105 teams play in 83 different stadiums and areas that are located in 24 states the District of Columbia. Historically, stadiums were often built as public works projects, but over time, as stadium costs have escalated, team owners have become more willing to contribute to the cost of new stadiums and negotiate with public entities for stadium revenues.

Sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The combined state and local sales and use tax rate is between 7 percent and 8.6 percent, depending upon location.

Cities and counties may impose a tax of up to 5 percent on admissions to events except elementary and secondary school events. The county tax does not apply within cities that impose the tax.

A special 2 percent sales tax on hotel-motel room rentals was authorized in 1967 for King County to build the KingDome. The tax is credited against the state sales tax; therefore, the total amount of tax paid by the consumer is not increased as a result of the basic hotel-motel tax. In King County, this tax is scheduled to expire in 2012. At that time, cities in King County will be able to levy their own hotel-motel tax.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax rate of 12.84 percent is imposed on the amount paid in rent for the public property.

The State Lottery Commission administers several games of chance that are collectively called the State Lottery. The commission is directed by statute to operate the lottery to "produce the maximum amount of net revenues for the state consistent with the dignity of the state and the general welfare of the people."

**Summary:** A new Public Stadium Authority is created and a financing package is provided for the construction of a multi-use stadium and exhibition facility.

**Public Stadium Authority.** A new Public Stadium Authority is authorized in any county that has an agreement with a professional football team to develop a stadium and exhibition center. The Public Stadium Authority must be created by the county legislative authority and be governed by a seven member board of directors appointed by the Governor. The Public Stadium Authority may accept the KingDome real estate but not the outstanding debt, select the site, construct a stadium and exhibition center and enter into a long-term development and lease agreement with a professional football team. The Public Stadium Authority may also enter into agreements for expediting the permit process with a city

or county, filming rights for the demolition of the KingDome, selling stadium permanent seat licenses, sharing profits on the exhibition center, and naming of the stadium.

The Public Stadium Authority is exempt from the public works laws, but it must comply with prevailing wage statutes and county women and minority business participation goals. The Public Stadium Authority is also exempt from public disclosure of any financial information it obtains of users of the stadium.

**Financing of the Stadium.** The construction of the new football stadium and exhibition center (projected to cost \$425 million) is financed by a combination of state, local and private sources.

*State revenue sources:* The county may impose a sales and use tax at a rate of 0.016 percent. This tax is credited against the state sales and use tax; therefore, consumers will not see an increase in tax. The revenues will be deposited into the stadium and exhibition center account and used to retire bonds issued for the construction of the stadium and exhibition center. The tax and credit expire when the bonds are retired, but not later than 23 years after the tax is first collected.

The Lottery Commission is directed to conduct new games and distribute \$6 million in 1998 to the stadium and exhibition center account. The amount of the distribution increases by 4 percent each year. The distributions end when the bonds are retired, but no later than 2020. The operator of the stadium must promote the lottery with in-kind advertising, sponsorship or prize promotions valued at \$1 million annually.

A retail sales tax deferral is provided on the costs of constructing the facility. The deferral applies to labor and services, material and supplies, rental of equipment, and other retail transactions. The sales tax must be repaid over a ten year period and the payments will be deposited into the stadium and exhibition center account.

A leasehold excise tax exemption is provided for public or entertainment areas in the facility. The exemption does not apply to the private offices or locker rooms.

The state sales tax does not apply to vehicle parking fees charged at the stadium and exhibition center.

*Local revenue sources:* King County may impose a 10 percent tax on the admissions to events in the new stadium and exhibition center and a 10 percent tax on vehicle parking at the new facility. The revenues are for payment of the bonds issued to construct the stadium and exhibition center. After the bonds are retired, these revenues may be used to repair, equip and make capital improvements to the facilities.

King County's share of the 2 percent hotel-motel tax is extended from 2012 to 2015 and the revenues may be used for KingDome repairs and debt. In addition, 75 percent of the county-imposed 1 percent car rental tax must be used for KingDome repairs and debt.

King County's share of the 2 percent hotel-motel tax is extended an additional five years to 2020 and the revenues

are deposited into the stadium and exhibition center account to repay the bonds issued for the new stadium and exhibition center.

*Private contributions:* The team is required to contribute \$100 million, \$50 million by August 1, 1997, and \$50 million prior to completion of the stadium, for the construction of the stadium and exhibition center. In addition the team must contribute \$10 million for youth athletic facilities.

*Other provisions:* Any revenues from the Olympic games and world cup soccer events above actual costs are put into a new account and are to be used for tourism development and promotion. Revenues from the filming rights of the demolition of the KingDome are deposited into a new account and are to be used for promoting the film and video production industry.

State Bonds. The state is authorized to issue \$300 million general obligation bonds for the construction of the new stadium and exhibition center and the principal and interest on those bonds will be paid from the state and local revenue sources.

The bonds may not be issued until the Office of Financial Management has certified that: (1) the team will play its home games in the new stadium for the life of the bonds, (2) the team is responsible for cost overruns, (3) the team has committed at least \$100 million toward the cost of the stadium, (4) 10 percent of the seats are "affordable," (5) one luxury box will be made available as a free upgrade to purchasers of certain tickets, (6) the team has contributed \$10 million to the youth athletic facility account, (7) the team will provide free office space to the public stadium authority, (8) the team will spend at least \$10 million to mitigate the impact of construction and operation of the stadium on the surrounding neighborhood, (9) 20 percent of net profits from the exhibition facility will be given to the permanent school construction fund, (10) if a majority interest in the team is sold, 10 percent of the gross selling price is granted to the state to retire the public debt of the stadium or if the debt is retired, to pay for capital improvements to the stadium, (11) the football team that will use the stadium is owned by a person that is a resident of the state since January 1, 1993, (12) the Public Stadium Authority is created, and (13) the local taxes are enacted.

The total public share of the stadium and exhibition center is limited to \$300 million and the bonds issued for the stadium and exhibition center are exempt from the state 7 percent debt limit.

Youth Athletic Facility Grants. The team must contribute \$10 million to youth athletic facility grants by August 1, 1997. Any revenues from the state and local tax sources that are in excess of the bond payments are for youth athletic facility grants. The grants will be administered by the Interagency Committee for Outdoor Recreation for grants to city, county and nonprofit organizations on a competitive basis for youth and community athletic facilities.

Voter Approval. The entire stadium and exhibition center proposal is referred to a vote of the people at a special election to be held on or before June 20, 1997. The proposal is null and void unless the team agrees to pay the full cost of the election.

**Votes on Final Passage:**

House	56	41
Senate	28	21

**Effective:** April 26, 1997 (Sections 606-607)  
 June 20, 1997 (Section 605)  
 July 17, 1997 (Sections 101-604 if approved by voters by June 20, 1997)

**ESHB 2193**

C 273 L 97

Allowing the joint center for higher education transportation fees and excluding higher education and the joint center for higher education from the state agency parking account.

By House Committee on Higher Education (originally sponsored by Representatives Carlson, D. Sommers, Gombosky, Benson and Mielke; by request of Joint Center for Higher Education).

House Committee on Higher Education  
 Senate Committee on Higher Education  
 Senate Committee on Ways & Means

**Background:** Public colleges and universities may collect and retain parking fees from employees, students, and members of the public. Public baccalaureate institutions have specific authorization to adopt rules governing parking and traffic upon land and facilities under their control. The baccalaureate institutions may adjudicate parking infractions and collect and retain any parking fines. Anyone who wishes to challenge a parking fine levied by the institution may appeal the decision in district court. The appeal is heard de novo.

There is an account in the state treasury called the state agency parking account. State agencies must deposit all income from parking fees into the account. Institutions of higher education are exempt from this requirement.

**Summary:** The governing board of the Spokane Joint Center for Higher Education may adopt rules governing parking and traffic on the center's lands and facilities. The board may establish, collect, and retain parking fees, adjudicate parking infractions, and collect and retain parking fines. Anyone who wishes to challenge a parking fine levied by the board may appeal the decision in a district court in Spokane County. The appeal is to be heard de novo.

The board may impose a voluntary or mandatory transportation fee on faculty and staff working at the Riverpoint Higher Education Park and on students attending classes there. Any fee must be used to support

## HB 2197

transportation demand management programs that reduce the demand for parking and promote alternatives to single-occupant vehicles. If a mandatory fee is charged to students, a fee of at least that amount must be charged to faculty and staff. The maximum fee is described. The board cannot impose a transportation fee on any student who is already paying a transportation fee to the institution of higher education where the student is enrolled.

Parking fees collected by the Spokane Joint Center will not be deposited in the state agency parking account.

### Votes on Final Passage:

House	96	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 27, 1997

## HB 2197

### FULL VETO

Creating the K-20 education technology revolving fund.

By Representatives Huff, H. Sommers, Carlson, Wensman, Talcott, Clements, O'Brien, Hatfield, Cooke, Dickerson and Kessler.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The 1996 Legislature enacted legislation creating the K-20 Education Network. The purpose of the network is to enhance the education system's ability to access telecommunications resources and to provide citizen access to quality primary, secondary, and postsecondary courses and degree programs state-wide through distance education. The establishment of a common telecommunications backbone network will provide the infrastructure upon which to build a coordinated educational technology system. The K-20 technology account was created to receive all monies from legislative appropriations, gifts, and endowments in support of the K-20 telecommunications system. The account is subject to appropriation by the Legislature. The 1995-97 Appropriations Act provided \$54.3 million for construction and start-up of a shared state educational telecommunications infrastructure. The Governor vetoed \$12 million of that total funding amount. Oversight for the K-20 Education Network is provided by the Telecommunications Oversight and Policy Committee (TOPC). The committee's responsibilities include the planning and direction of the K-20 Education Network infrastructure, the purchase of equipment, and the development of a funding structure to support the ongoing operations and maintenance of the network.

**Summary:** The education and technology revolving fund is created in the state treasury. The Department of Information Services, in conjunction with educational entities participating in the K-20 network, must establish a billing structure that results in all network users paying an equita-

ble share of costs based on their usage. The Office of Financial Management must review and approve the billing structure. The revolving fund must only be used for the acquisition of equipment, software, supplies and services, and other costs incidental to the acquisition, development, operation, and administration of shared educational information technology services, telecommunications, and systems. The director of the Department of Information Services or the director's designee may authorize expenditures from the revolving fund. Disbursements from the revolving fund are subject to the Office of Financial Management's allotment procedures as required by the Budget and Accounting Act.

Since there are two funding sources, the K-20 technology account and the education and technology revolving fund, the Department of Information Services is no longer required to deposit all moneys received from legislative appropriations, gifts, grants, and endowments into the K-20 technology account.

### Votes on Final Passage:

House	96	0
Senate	45	0

### VETO MESSAGE ON HB 2197

April 26, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

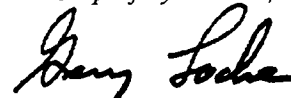
I am returning herewith, without my approval, House Bill No. 2197 entitled:

"AN ACT Relating to creating the education technology revolving fund;"

I fully support HB 2197, which provides a funding mechanism to support the ongoing operations of the K-20 educational telecommunications network. However, HB 2197 is identical to SB 6004, which I signed into law on April 23, 1997.

For this reason, I have vetoed House Bill No. 2197 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SHB 2227

C 336 L 97

Establishing requirements for health services providers under industrial insurance.

By House Committee on Commerce & Labor (originally sponsored by Representatives Clements and McMorris).

House Committee on Commerce & Labor  
Senate Committee on Commerce & Labor

**Background:** To treat injured workers under the industrial insurance system, a health services provider must



qualify as an approved provider. The Department of Labor and Industries approves providers and issues provider numbers. The department may deny an application or terminate or suspend a provider's eligibility to participate as a provider for injured workers.

Under the Uniform Disciplinary Act, covered health services providers are subject to discipline for using advertising that is false, fraudulent, or misleading. Some professional licensing statutes also make it unethical conduct for providers to use false, misleading, or deceptive advertisements.

The industrial insurance law makes it a class C felony for any person or entity to solicit or receive, or offer or pay, a kickback, bribe, or rebate in return for referring a claimant for industrial insurance services or for purchasing or recommending goods or services covered by industrial insurance. This penalty does not apply to properly disclosed discounts. The law does not address payments that may be made to a provider for acting as the claimant's authorized representative to procure services.

**Summary:** A health services provider who provides health care services to an injured worker while acting as the worker's representative to obtain authorization for the services and who charges a percentage of the benefits or other fee for acting as the worker's representative is guilty of a gross misdemeanor. A fine may be imposed up to \$25,000.

The Department of Labor and Industries may deny the application of a health care providers to participate as a provider of services to injured workers, or terminate or suspend the provider's eligibility to participate, if the provider uses false, misleading, or deceptive advertising regarding the industrial insurance system or benefits for injured workers.

**Votes on Final Passage:**

House	98	0	
Senate	42	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 27, 1997

## 2SHB 2239

C 164 L 97

Providing for conversion of nursing home bed capacity to enhanced residential care services.

By House Committee on Appropriations (originally sponsored by Representative Sherstad).

House Committee on Health Care  
House Committee on Appropriations  
Senate Committee on Health & Long-Term Care

**Background:** In 1995 ESSHB 1908 was enacted creating both assisted living and enhanced adult residential care services. These services are designed to offer persons who are otherwise eligible for nursing home services a choice

in receiving limited nursing services in a licensed boarding home. These services may be received either in a private apartment-like unit (assisted living) or in a semi-private room without the full functional or structural amenities of an apartment-like unit (enhanced adult residential care). The Department of Social and Health Services is prohibited from requiring licensed nursing homes to make structural modifications for the purpose of providing enhanced adult residential care.

Since the passage of ESSHB 1908, only one licensed nursing home has reportedly converted its beds to provide enhanced adult residential care. Nursing home administrators suggest that one reason for the lack of enhanced adult residential care beds is the failure of the law to clearly direct the Department of Health to not require licensed nursing homes to comply with boarding home construction and life safety requirements. Additionally, by Department of Health regulation, outside health care services cannot be provided to residents in semi-private rooms.

**Summary:** Certain restrictions are removed that discourage nursing homes from providing enhanced adult residential care. Licensed nursing homes that choose to be licensed as boarding homes for the purpose of providing enhanced residential care can be deemed to be in compliance with the boarding home building code and life safety requirements. The Department of Health is directed to allow outside health care services to be provide in semi-private rooms.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** July 27, 1997

## EHB 2255

C 455 L 97

Adopting the capital budget.

By Representatives Sehlin, Sullivan and D. Sommers; by request of Governor Locke.

**Background:** The capital budget is one of three budgets used in Washington State to govern state agency expenditures during the state's two-year fiscal biennium. The capital budget generally includes appropriations for acquisition, construction, and repair of state office buildings, public schools, colleges and universities, prisons, parks, local government infrastructure, and other long-term facility and land investments. In recent years, the primary funding source used to fund projects authorized in the capital budget has been the sale of state bonds, with the balance coming from dedicated taxes and fees, revenues from state trust lands, and federal grants.

Generally the Legislature adopts a biennial capital budget on the odd-numbered years and a supplemental

## ESHB 2259

budget on the even-numbered years to make changes or additions to the biennial budget. The Legislature may also adopt separate bills making capital budget appropriations for specific purposes.

**Summary:** The state capital budget for the 1997-99 fiscal biennium (SSB 6063) is amended to add three projects totaling \$10 million: (1) \$4.7 for the housing assistance program; (2) \$4.6 for Heritage Park; and (3) \$0.7 for community service facilities. The appropriation for the public participation grant program is transferred from the Department of Community, Trade, and Economic Development to the Department of Ecology.

### Votes on Final Passage:

House	97	1
Senate	44	5

Effective: May 20, 1997

## ESHB 2259

### PARTIAL VETO

C 454 L 97

Making appropriations for the fiscal biennium ending June 30, 1999.

By House Committee on Appropriations (originally sponsored by Representatives Huff, H. Sommers, Dickerson and Conway; by request of Governor Locke).

### House Committee on Appropriations

**Background:** The state government operates on the basis of a fiscal biennium that begins on July 1 of each odd-numbered year.

**Summary:** The 1997-99 Omnibus Appropriations Act is passed, making appropriations for the 1997-99 biennium. The state general fund total is \$4.27 billion. The 1996 supplemental budget is amended to increase state general fund appropriations by \$100 million, for a total 1995-97 biennial appropriation of \$17.711 billion from the state general fund.

(Note: The 1997-99 Omnibus Appropriations Act is a combination of the appropriations in both ESHB 2259 and SSB 6062. The combined appropriations in SSB 6062 and ESHB 2259 for the 1997-99 Omnibus Appropriations Act is \$19.073 billion from the state general fund.)

### Votes on Final Passage:

House	52	46
Senate	27	22

Effective: May 20, 1997

**Partial Veto Summary:** The Governor vetoed all or parts of 25 sections of the act. The net effect of the vetoes is to increase the state general fund appropriation by \$4.65 million. In addition, \$800,000 in state general fund appropriations lapsed due to the failure of several pieces of legislation to pass the Legislature. The combined appro-

priations in SSB 6062 and ESHB 2259 after the vetoes is \$19.077 billion from the state general fund.

## VETO MESSAGE ON HB 2259-S

May 20, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 204(1); 204(6)(a); 204(6)(b); 204(6)(c); 204(9)(d); 206(3); 207(2); 210(5); 213(2)(d); 302(3); 302(4); 302(5); 302(17); 302(22); 304(16); 501(1)(e); 501(2)(e)(i); 503(4)(b); 503(5); 506(8); 507(4); 507(5); 507(6); 602(2); 611(5)(a)(i); 702; 706; 902, and 1608, page 211, lines 24-38 and page 212, lines 1-2, Engrossed Substitute House Bill No. 2259 entitled:

"AN ACT Relating to fiscal matters;"

My reasons for vetoing these sections are as follows:

Section 204 (1), page 17, General Assistance-Unemployable (Department of Social and Health Services — Economic Services Program)

This subsection requires that General Assistance-Unemployable recipients needing alcohol or drug treatment be assigned a protective payee to serve as a custodian of those recipients' cash assistance payments. While I support the concept of protective payees in this program, I cannot support policy changes that would increase administrative costs when the legislative budget significantly reduces basic cash and medical assistance benefits available to those receiving General Assistance.

Sections 204(6)(a), 204(6)(b) and 204(6)(c), Child Care Co-pays (Department of Social and Health Services — Economic Services Program)

Affordable child care is a crucial part of successfully moving people from welfare to work. To effectively administer a child care assistance program for low-income families within the amounts appropriated by the Legislature, the Department must have the flexibility to devise a workable co-payment schedule that keeps the program solvent while still providing the assistance necessary to keep low income parents in the work force. Therefore, I have vetoed the co-payment schedule outlined in this section, because it does not provide the Department with the necessary flexibility and may significantly increase the cost of child care for low-income families.

Instead, I will direct the Department to implement a child care program that supports the goals of the WorkFirst program to make work pay. The monthly co-pay required shall be a minimum of ten dollars for families at or below seventy-four percent of the federal poverty level adjusted for family size. For families with incomes above seventy-four percent of the federal poverty level adjusted for family size, the monthly co-pay shall be a minimum of twenty dollars or forty-seven percent of the family's income above one hundred percent of the federal poverty level adjusted for family size. Child care assistance shall not be provided to families with incomes above one hundred seventy-five percent of the federal poverty level adjusted for family size. As the program develops, we will continue to evaluate the success of this child care schedule in making work pay while holding costs within the appropriation level for the Workfirst program.

Section 204(9)(d), page 20, Child Care (Department of Social and Health Services — Economic Services Program)

I am committed to operating the WorkFirst program within the appropriation level as required by Engrossed House Bill 3901. However, I believe that requiring the Department of Social and Health Services to remain within a further defined appropriated level specific to child care unnecessarily restricts the administration of the WorkFirst Program. Other states have succeeded in significantly reducing welfare dependency by making large investments in child care and other support services, while making corresponding reductions in their grant programs. I do not want to foreclose that option in Washington State. Therefore I have

vetoed this provision so the Department has flexibility in making strategic funding decisions as this program develops.

Section 206(3), page 22, Diversity Initiative (Department of Social and Health Services — Administration and Supporting Services)

This proviso would restrict the use of funding for staff or publications related to diversity initiatives. I believe agencies must take an active role in promoting diversity in the workplace, and have therefore vetoed this proviso.

Section 207(2), page 23, Child Support Waiver (Department of Social and Health Services — Child Support Program)

This proviso requires the Department of Social and Health Services to request a waiver from federal regulations regarding child support enforcement to allow the Department to replace current program audit criteria with performance measures based on program outcomes. This waiver is unnecessary, because the federal government has already replaced its process-based audit criteria with performance-based criteria and the Department currently operates under a performance-based agreement with the federal government. Because there is no need for a waiver, I have vetoed this proviso.

Section 210(5), page 26, Basic Health Plan Report (State Health Care Authority)

This section would require the State Health Care Authority (HCA) to report back to the Legislature by December 1, 1997 on the number of Basic Health Plan enrollees who are illegal aliens. Since the HCA does not currently collect this information, it would require substantial effort and expense to do so in order to report to the Legislature in five months. Because the Legislature provided no funding to collect this information, I have vetoed this proviso. I am also concerned that any plan to ask enrollees about their immigration status will prevent many of them from seeking needed health care.

Section 213(2)(d), page 34, Health Care Expenditures (Department of Corrections — Institutional Services)

Section 213, Subsection 2(d) states that it is the intent of the Legislature that the Department of Corrections reduce health care expenditures in the 1997-99 Biennium using the scenario identified in the 1996 Health Services Delivery System Study which limited health care costs to \$43 million in Fiscal Year 1998 and \$40.7 million in Fiscal Year 1999. I am concerned that this approach sets unrealistic and inflexible expectations with regard to health care expenditure reductions in the Department. The scenario referenced in the study suggests specific percentage reductions in certain areas such as out-patient hospitalization, which may not be achievable in the health care market. In addition, although the budget language references a limit to health care costs per year as stated in the health services delivery system study, it could be interpreted as a lid on total health care expenditures for the respective years. This may establish an unrealistic expectation, given recent changes in sentencing law that will further increase the state prison population. While I expect the Department will make every effort to reduce health care expenditures, it is in the state's interest that the Department have the flexibility to implement health care reductions in a safe and legally defensible manner.

Section 302(3), page 40, Funding for Water Right Permit Processing, Water Resources Data Management, and Technical Assistance to Local Watershed Planning (Department of Ecology)

This proviso stipulates that funding provided to the Department of Ecology shall lapse if sections 101 through 116 and 701 through 716 of Second Substitute House Bill 2054 are not enacted by June 30, 1997. Because I have vetoed some of these sections of Second Substitute House Bill 2054, I have also vetoed Section 302(3) of the appropriations act to lessen the confusion regarding the appropriation authority for the Department of Ecology.

Section 302(4), page 40, Grant Funding for Regional Planning (Department of Ecology)

Locally developed plans have been found to be an effective tool in managing water resources within a watershed by bring-

ing together interested parties with knowledge and insights specific to the watershed. However, the local planning efforts have also relied — and will continue to rely — on technical expertise and information that state agencies can provide. For this reason, it is essential that the state provide adequate funding for the departments of Health, Fish and Wildlife, Ecology, and Community, Trade, and Economic Development. Therefore, I have vetoed this subsection and directing that the limited funds provided by the Legislature for watershed planning efforts be used in a more balanced and comprehensive fashion.

Section 302(5), pages 40-41, Implementation of ESHB 1111, Granting Water Rights (Department of Ecology)

This subsection stipulates that the funding provided to implement Engrossed Substitute House Bill 1111 lapses if that bill is not enacted. I have vetoed Substitute House Bill 1111 because I do not believe that its provisions are in the best interest of the state. Therefore, I have also vetoed Section 302(5) of the appropriations act to eliminate confusion regarding the expenditure authority for the Department of Ecology.

Section 302(17), page 43, Special Purpose Vehicles (Department of Ecology)

This subsection requires the Department of Ecology to reduce its fleet of special purpose vehicles by 50 percent as of June 30, 1999. In addition, the Department is required to replace the special purpose vehicles with fuel efficient vehicles or not replace them at all, depending on the agency's vehicle requirements. I have vetoed this restriction because it would severely impair the Department's ability to reach remote areas to attain water quality samples, respond to oil and other hazardous materials spills, and support the Washington Conservation Corps program.

Section 302(22), pages 43-44, Implementation of SSB 5030, Lake Water Irrigation (Department of Ecology)

This subsection stipulates that the funding provided to the Department of Ecology to implement Substitute House Bill 5030 lapses if the bill is not enacted. I have vetoed Substitute House Bill 5030, which provides a water right (contingent on a determination that water is available) to those who have used the water from Lake Washington for irrigation purposes. The water issues facing this state need to be addressed through an integrated and comprehensive approach, rather than the piecemeal fashion advanced by Substitute Senate Bill 5030. I have vetoed Section 302(22) of the appropriations act to eliminate confusion regarding the expenditure authority for the Department of Ecology.

Section 304(16), page 48, Implementation of SSB 5120, Remote Site Incubators (Department of Fish and Wildlife)

This proviso stipulates that the funding provided to the Department of Fish and Wildlife under Substitute Senate Bill 5120 lapses if this bill is not enacted. I have vetoed Substitute Senate Bill 5120, which would require the Department to implement a program supporting remote site incubators across the state. Therefore, I have also vetoed Section 304(16) to eliminate confusion regarding the appropriation authority for the Department of Fish and Wildlife.

Section 501(1)(e), page 53, Goals 2000 (Superintendent of Public Instruction — State Administration); and Section 506(8), page 65, (Superintendent of Public Instruction — Education Reform Programs)

I have vetoed two subsections which would prevent the state from accepting federal Goals 2000 funding to support Washington State's education reform initiative. Goals 2000 funding supports development of state and local plans to improve student learning and is helping Washington State realize the goal of improving student achievement as envisioned in Washington's Education Reform Act of 1993.

Over \$16 million in Goals 2000 funding is expected to be available to Washington State during the 1997-99 Biennium. Of this amount, \$14 million will be available for grants to help schools develop and implement student learning improvement plans, supplementing \$50.8 million in General Fund-State appropriations approved by the Legislature for student learning

improvement grants. Another \$1.0 million in Goals 2000 funding will be used to pay for the development of tests to measure student achievement, and the remaining \$0.7 million will fund state coordination and planning by the Office of Superintendent of Public Instruction.

Section 501(2)(e)(i), page 54, Second Substitute Senate Bill 5508 (Superintendent of Public Instruction — State Administration)

This proviso authorizes \$700,000 for implementation of Second Substitute Senate Bill 5508, pertaining to Third Grade Reading Accountability. Because the Legislature did not approve this bill, I have vetoed this subsection of the appropriations act.

Section 503(4)(b), page 62, Salary Increase Allocations (Superintendent of Public Instruction — Employee Compensation Adjustments)

Section 503(4)(b) would reduce allocations for 1998-99 state salary increases to districts that appear to be in violation of the state salary limit for teachers and other certificated instructional school employees (RCW 28A.400.200).

I understand there have been some concerns about compliance with the state salary limit, and I support Section 503(4)(a) which requires the Superintendent of Public Instruction (SPI) to compare actual and allocated salaries in the 1997-98 school year and report results to the Legislature. This report will provide valuable information to the 1998 Legislature, and will give school districts an opportunity to explain apparent violations of the salary limit.

However, I do not favor imposing penalties without further review of this issue. The proposed comparison of actual and allocated salaries is not synonymous with the salary limit imposed by RCW 28A.400.200. The statute limits total actual salary payments at year-end, whereas the comparison proposed in this subsection is based on staff employed by a school district at the beginning of the school year (October 1). Also, the penalty proposed by 503(4)(b) would take money away from school districts in the 1998-99 school year — a year when no state salary increase is provided. The result could be pay cuts for school employees.

Therefore, I have vetoed Section 503(4)(b) to provide an opportunity for these issues to be carefully considered before imposing penalties.

Section 503(5), page 63, Salary Adjustments for Classified Staff (Superintendent of Public Instruction — Employee Compensation Adjustments)

Section 503(5) would require that every state-funded classified school employee receive a three percent salary adjustment effective September 1, 1997.

I value the classified school employees who teach in classrooms, drive school buses, serve in cafeterias, and work in offices around this state. I believe they deserve more than one three-percent salary increase in the next two years. But I do not support state intervention into school salary negotiations.

The salary increase money provided for school employees has been, and should continue to be, "for allocation purposes only." Actual salaries should be set by school boards through negotiations with employees and their representatives. Section 503(5) would circumvent this process and would also burden school districts with needless paperwork to demonstrate compliance. For these reasons, I have vetoed section 503(5).

Section 507 (4), (5), and (6), pages 65-66, Bilingual Program Formula (Superintendent of Public Instruction — Transitional Bilingual Programs)

Section 507(4) would eliminate state support for bilingual instruction for preschool students. I have vetoed this section because I believe that this instruction serves the best interest of students and the state as a whole. Children growing up in homes where English is not the primary language face a difficult adjustment when entering the public schools. It only makes sense to help these children and their parents make this adjustment more successful. I understand there may be a question about whether state funding can be provided for these students

under current law, but my veto of this section allows the legal issue to be resolved independently and leaves open an opportunity for further policy discussion about the merits of this instruction.

Section 507(5) and (6) would implement a new "weighted" bilingual funding formula based on each student's grade level and years in bilingual instruction. This may be an excellent idea, but it lacks the supporting analysis necessary for a change in a basic education program. Bilingual instruction is generally accepted as part of the program of "basic education" required to meet the state's constitutional duty to provide for the education of all children in Washington. While basic education formulas are not cast in stone, they should be changed only after careful analysis and based on findings of the Legislature. Section 507(2) requires the Superintendent of Public Instruction to study the bilingual funding formula and report to the Legislature by January 15, 1998. With the benefit of this study, the Legislature will be better prepared to propose and defend changes to the bilingual funding formula. Therefore, I have vetoed section 507(5) and (6).

Section 602(2), page 73, Higher Education enrollment

In this section, the Legislature states its intent to penalize higher education institutions for falling as little as one full-time equivalent (FTE) student below the FTE enrollments assumed in the 1997-99 Operating Budget. Exceptions are allowed only for Eastern Washington University and branch campuses. I fully support the expectation that institutions will operate productively and efficiently. I also proposed a sanction for enrollment under budget targets. However, sanctions for under enrollment should occur only if enrollment is below a target range from budgeted levels, not for each single FTE. Moreover, if the Legislature does intend to impose a fiscal penalty for under enrollment, more precise parameters will need to be specified, including the data sources and threshold dates used to calculate enrollment and the dollar sanction per under enrolled FTE. Therefore, I have vetoed this section because it represents an unworkable approach to addressing the issue of under enrollment.

Section 611(5)(a)(i), page 84, Alternative Distribution of State Need Grants (Higher Education Coordinating Board)

Section 611(5)(a)(i) directs the Higher Education Coordinating Board (HECB) to determine eligibility for state need grants for the 1998-99 academic year based on a family income index for independent and dependent students, unless a model is developed to calculate need grant amounts based on the cost of tuition. I have vetoed this requirement, because I believe it mandates a significant change in how state need grants are distributed in a way that discourages careful deliberation of the merits of these proposals. Instead, the HECB or Legislature must take one action in order to prevent another policy from taking effect. Using a family income index for independent and dependent students would lower the need grant eligibility threshold for independent students. This could have a significant impact on certain students' access to state financial aid, which has not been adequately assessed. If the Legislature's intent is to base need grant awards on the cost of tuition, the HECB can evaluate the effect of this policy change, prepare proposals and present recommendations by the 1998 Legislative Session. It is not necessary to link the two policies together in a way that could inhibit good debate and sound decisions.

Section 702, page 87, Year 2000 Allocations

This section repeals funding provided for Year 2000 maintenance of computer systems in Substitute Senate Bill 6062 for the 1997-99 Biennium. Section 1608 of Engrossed Substitute House Bill 2259 replaces this funding in the 1997 Supplemental Budget, and requires that the funds be deposited in a nonappropriated account so they can be expended in the 1997-99 Biennium. However, in some cases this approach is contrary to federal requirements for use of funds, and creates potential fund imbalances in other dedicated accounts. In order to avoid these technical problems, I have vetoed Section 702 so that the appropriations from dedicated funds originally provided for the 1997-99 Biennium remain in effect. Since this approach creates duplicate General Fund-State appropriations (one in the Fiscal Year

1997 Supplemental Budget and one in the 1997-99 biennial budget), I will place the General Fund-State appropriation for the 1997-99 Biennium in reserve and will request that it be eliminated in the Fiscal Year 1998 Supplemental Budget.

**Section 706, page 89, Regulatory Reform**

The 1997 Legislature approved two regulatory reform bills, Engrossed Second Substitute House Bill 1032, and Substitute House Bill 1076, sections of which I am signing into law. Section 706 of Engrossed Substitute House Bill 2259 repeals appropriations made in Substitute Senate Bill 6062 — which I have signed into law — designed to fund increased duties and responsibilities for agencies implementing changes to regulatory processes during the 1997-99 Biennium.

I have vetoed Section 706 of Engrossed Substitute House Bill 2259 to preserve funding needed to implement the approved sections of the two regulatory reform bills. The Office of Financial Management will allocate portions of this funding to agencies, as necessary, to implement these two bills.

**Section 902, page 93, Council on Environmental Education**

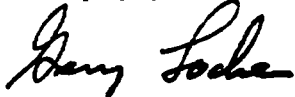
This section prohibits the use of state funds provided in Engrossed Substitute House Bill 2259 to support the Governor's Council on Environmental Education. There are eleven state agencies that work with the state's environmental community and federal agencies on environmental education related activities. Funding for the Council is necessary to promote efficient and coordinated efforts in this area. Therefore, I have vetoed section 902.

**Section 1608, page 211 line 24 - 38, page 212 line 1-2, Year 2000 Allocations (Office of Financial Management)**

In concert with the veto of Section 702, I have vetoed all but the General Fund-State appropriations in Fiscal Year 1997 for Year 2000 conversion costs contained in Section 1608 of Engrossed Substitute House Bill 2259. Allocations will be made by the Office of Financial Management directly from the dedicated funds in the 1997-99 Biennium as directed in Substitute Senate Bill 6062. The veto of the dedicated fund appropriations in ESHB 2259 simplifies the administration of the other fund allocations, avoids potential fund balance problems, and is consistent with regulations for the use of federal funds.

With the exception of sections 204(1); 204(6)(a); 204(6)(b); 204(6)(c); 204(9)(d); 206(3); 207(2); 210(5); 213(2)(d); 302(3); 302(4); 302(5); 302(17); 302(22); 304(16), 501(1)(e); 501(2)(e)(i); 503(4)(b); 503(5); 506(8); 507(4); 507(5); 507(6); 602(2); 611(5)(a)(i); 702; 706; 902, and 1608, page 211, lines 24-38 and page 212, lines 1-2, Engrossed Substitute House Bill 2259 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESHB 2264**

C 274 L 97

Eliminating the health care policy board.

By House Committee on Appropriations (originally sponsored by Representatives Koster, Huff, D. Sommers, Sterk, Sherstad, Boldt, Mulliken, Thompson and McMorris).

House Committee on Appropriations

**Background:** The Health Care Policy Board (HCPB) was created in 1995 as a successor to the Health Services

Commission. The creation of the HCPB and elimination of the commission reflected the changes in direction of health care reform made by the 1995 legislation. The HCPB is composed of five full-time members appointed by the Governor and four part-time members, appointed by the four caucuses of the House and Senate.

The HCPB is responsible for making policy recommendations to the Governor and Legislature on a variety of health care issues. In particular, state law lists about two dozen specific topics that the HCPB is to report on, including individual and group insurance, long-term care, rural health care, medical education, community rating of health insurance, model billing and claims forms, quality improvement efforts, and other topics.

The HCPB also has authority to grant and administer immunities from antitrust laws for health care service organizations. The HCPB receives, analyzes, and grants petitions for immunity from antitrust laws and supervises those organizations receiving immunity to ensure that the immune conduct continues to further the state's health care goals.

Since 1993, the HCPB received nine petitions for anti-trust immunity, and granted four. The HCPB currently monitors the four organizations granted immunity.

The health services account provides funding for the HCPB. There will be a deficit of about \$180 million in the health services account in the 1997-99 biennium, if no changes are made to expenditures from that account.

**Summary:** The Health Care Policy Board is eliminated. The responsibility for granting antitrust immunity and monitoring the grants of immunity already granted is transferred to the Department of Health (DOH). The DOH is authorized to enforce and administer rules previously adopted by the Health Care Policy Board. The DOH must establish fees to cover the costs of the DOH's antitrust immunity responsibilities, subject to fee ceilings. The fees charged by the DOH to finance the anti-trust immunity activities must also be sufficient to fund attorney general costs, but within the same fee ceiling.

Proprietary information provided to the DOH in the course of reviewing petitions for antitrust immunity are exempt from public inspection and copying under the Public Disclosure Law.

**Votes on Final Passage:**

House	58	39	
Senate	47	0	(Senate amended)
House	61	36	(House concurred)

**Effective:** July 1, 1997

**HB 2267**

C 251 L 97

Creating the disaster response account.

## ESHB 2272

By Representatives Huff, H. Sommers, Hatfield, Kessler, Lambert, Ogden, Dickerson, Kenney and Wensman; by request of Office of Financial Management.

House Committee on Appropriations

**Background:** Washington experienced five major natural disasters during the 1995-97 biennium that resulted in millions of dollars worth of damages to public and private property. Because of the magnitude of the damages, presidential disaster declarations were granted. The Emergency Management Division in the Military Department, in cooperation with the Federal Emergency Management Agency (FEMA), administers state and local disaster recovery efforts.

Once the President declares a disaster, the state becomes eligible for federal assistance under programs administered by the FEMA. To receive federal assistance under one of these programs, 25 percent matching funds are usually required. During the 1995-97 biennium, the Legislature transferred general fund money to the flood control assistance account to pay for state and local matching funds. The flood control assistance account is administered by the Department of Ecology and is used to provide grants to local governments for flood control planning and structures.

**Summary:** A disaster response account is created in the state treasury. Moneys may be appropriated from the account only to support state agency and local government disaster response and recovery efforts.

### Votes on Final Passage:

House	90	0
Senate	47	0

**Effective:** May 5, 1997

## ESHB 2272

### PARTIAL VETO

C 420 L 97

Transferring enforcement of cigarette and tobacco taxes to the liquor control board.

By House Committee on Appropriations (originally sponsored by Representatives Huff, Clements, Alexander, Wensman, Sehlin and Mitchell).

House Committee on Appropriations

**Background:** Washington imposes a tax on the sale, use, consumption, handling, possession and distribution of cigarettes and tobacco products. Cigarettes are taxed at the rate of \$0.825 per pack. Tobacco products are taxed at the rate of 74.9 percent of the wholesale price. In addition to the cigarette and tobacco tax, sales tax and business and occupation tax are also applicable to the sale of cigarettes and tobacco products.

According to an estimate from the Department of Revenue (DOR), the state will lose \$109 million in tax

revenue in fiscal year 1997 from the illegal sale of untaxed cigarettes. Revenue losses occur from casual smuggling from states with lower cigarette tax rates than Washington, and from cigarettes purchased from tax-free outlets such as military post exchanges and Indian smoke shops.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. Sales made by a tribal cigarette outlet to nontribal members, however, are subject to the tax. The United States Supreme Court has affirmed that the state may impose a cigarette tax on sales made within reservations to nontribal members and have upheld the imposition of minimal burdens on the tribal seller to assist in collecting the tax. Those burdens have included affixing the appropriate stamp to individual cigarette packages and keeping records that distinguish between exempt sales and taxable sales. The ability of the state to take enforcement action on-reservation and off-reservation has been the subject of several lawsuits, leaving uncertain the extent of enforcement authority the state may exercise.

In 1996, the Legislature established the Cigarette Tax and Revenue Loss Advisory Committee to study and analyze cigarette tax revenues lost during 1992-95. The study included an analysis of lost cigarette tax revenue and an analysis of the revenue losses attributable to cigarette tax increases. The study also analyzed the feasibility of reducing lost revenue through negotiated agreements between the state and federally recognized Indian tribes in Washington. The committee did not reach consensus. The majority recommendation supported a cooperative approach that included negotiated agreements with the tribes. The minority recommendation opposed any agreements with the tribes and suggested that more scrutiny should have been given to enforcing the law against the purchase of untaxed cigarettes by non-Indian consumers.

The DOR is charged with enforcing the cigarette and tobacco products tax laws and administering and collecting the taxes. Department employees do not have general police powers and must appoint local law enforcement officers or state patrol officers as agents for certain enforcement actions such as search and seizure activity.

The Liquor Control Board enforces laws relating to minors' access to tobacco and may suspend or revoke retail or wholesale licenses of licensees who violate these laws. The board does not enforce cigarette or tobacco product tax laws. Liquor enforcement officers have general police powers to enforce the state's liquor laws.

**Summary:** Primary enforcement authority for cigarette and tobacco tax laws is transferred from the Department of Revenue (DOR) to the Liquor Control Board (LCB). It is the intent of the Legislature that the cigarette and tobacco tax laws of Washington be actively enforced. The DOR will continue to administer and collect cigarette and tobacco taxes. The DOR must appoint enforcement offi-

cers of the LCB as the department's authorized agents to allow both the department and the board to engage in certain enforcement activities. These officers are not considered employees of the DOR. The LCB must adopt rules necessary to enforce cigarette and tobacco tax laws.

A schedule is established to require the LCB to reduce lost revenue from cigarette and tobacco tax evasion by 50 percent within five years.

The Governor is given authority to execute cooperative agreements with federally recognized Indian tribes or nations concerning the sale of cigarettes and tobacco. The LCB is required to negotiate the cooperative agreements. The rate of tax imposed on tobacco and cigarette products under the cooperative agreement must be at the rate currently applied to these products, but the amount of taxes that may be retained by the Indian tribe or nation may be negotiated.

Fifty percent of the cigarette and tobacco tax revenue received by the state through cooperative agreements with Indian tribes or nations must be deposited into the violence reductions and drug enforcement account and fifty percent shall be deposited into the health services account. The sales and use tax, cigarette tax, and tobacco products tax do not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes or tobacco by Indian nations or tribes during the effective period of the cooperative agreements.

**Votes on Final Passage:**

House	58	37	
House	63	33	(House reconsidered)
Senate	32	16	(Senate amended)
House	54	43	(House concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the intent section and other sections that: (1) prescribe a collection schedule for lost cigarette and tobacco tax revenue due to tax evasion; (2) allow the Governor to execute cooperative agreements with federally recognized tribes concerning the sale of cigarettes and tobacco; and (3) distribute revenues received under cooperative agreements to the Violence Reduction/Drug Enforcement and Health Services accounts.

**VETO MESSAGE ON HB 2272-S**

May 19, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 2, and 12 through 17, Engrossed Substitute House Bill No. 2272 entitled:

"AN ACT Relating to transferring the enforcement of existing cigarette and tobacco taxes from the department of revenue to the liquor control board;"

Engrossed Substitute House Bill No. 2272 transfers responsibility for collection of cigarette taxes from the Department of Revenue to the Liquor Control Board. It also makes statements about the estimated amounts of tax revenue lost annually due to

evasion, and permits the governor to enter into agreements with tribal governments for the collection of the tax on tribal lands.

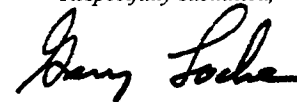
I concur with the Legislature that the state has a significant problem related to the collection of the state tax on cigarettes, and I agree that the Liquor Control Board is better suited to collect the tax than the Department of Revenue. However, I believe that other portions of ESHB 2272 are too restrictive to be practical.

Other states have successfully dealt with this issue through effective and fair government-to-government agreements. This bill would have authorized the governor to enter into compacts with Indian tribes regarding cigarette tax collection, but it leaves too little negotiating room. We already have other successful compacting processes in place. This bill did not make use of those successful processes. Instead, the compacting process set forth in the bill severely and unnecessarily restricts the terms of the agreements. I want the Legislature to revisit this compacting authority next session.

For these reasons, I have vetoed sections 1, 2, and 12 through 17 of Engrossed Substitute House Bill No. 2272.

With the exception of sections 1, 2, and 12 through 17, Engrossed Substitute House Bill No. 2272 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESHB 2276**

C 319 L 97

Promoting civil legal services for indigent persons.

By House Committee on Law & Justice (originally sponsored by Representatives Lisk, Huff and Sheahan).

House Committee on Law & Justice

House Committee on Appropriations

**Background:** In Washington, various legal service organizations provide civil representation to indigent residents. These organizations receive funding from different sources, including the federal Legal Services Corporation (LSC), state appropriations, the state supreme court, and private contributions.

**State Funding.** Money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements, or assessments by district courts, municipal courts, and superior courts is deposited in the Public Safety and Education Account (PSEA). The Legislature appropriates PSEA funds to promote various programs, including the civil representation of indigent persons.

Under Washington law, any money appropriated from the PSEA for civil representation of indigent persons must be used solely for the purpose of contracting with qualified legal aid programs for representation in matters of (1) domestic relations and family law; (2) public assistance, health care, and entitlement programs; (3) public housing and utilities; and (4) unemployment compensation. Funds distributed to qualified legal aid programs may not be used for lobbying or in class action suits.

A “qualified legal aid program” means a not-for-profit corporation, operating exclusively in Washington, which has received funding for civil legal services to indigents under federal law.

**Federal Funding.** Congress established the LSC, which makes grants to and contracts with individuals, organizations, and state and local governments to provide legal assistance to indigent persons. Federal law places various restrictions on the recipients’ use of LSC funds. Some of those restrictions include prohibiting a recipient from (1) engaging in grassroots lobbying; (2) participating in any public demonstration, picketing, boycott, or strike; (3) initiating the formation of any association, federation, labor union, coalition, network, alliance, or any similar entity; (4) providing representation to ineligible aliens or offer unsolicited in-person advice; and (5) initiating litigation, or challenging or participating in efforts to reform a federal or state welfare system (except that a recipient may represent a plaintiff seeking specific relief from a welfare agency). Recently, the federal law was amended to provide that many of the federal restrictions apply not only to federal funds, but also to any other funds the recipient receives.

Under Washington’s law, the funds distributed to legal aid programs in Washington are subject to all limitations imposed under federal law “as currently in effect or hereafter amended.”

**Washington’s Legal Services Organizations.** Before January 1996, the Spokane Legal Services Center, Puget Sound Legal Assistance Foundation, and Evergreen Legal Services received some federal funding to provide civil representation to indigent residents. The three organizations were recently merged to form Columbia Legal Services (CLS). CLS receives some state funding and does not receive federal funding. Civil legal services for indigent residents may also be available through law school clinics, volunteer attorneys, and other programs.

**Summary:** The Legislature intends to promote civil legal services to indigent persons, subject to available funds, while ensuring accountability. The Legislature recognizes both an attorney’s duty to represent clients without interference and the Legislature’s authority to specify the types of cases a legal aid program may participate in using state money.

The definition of a “qualified legal aid program” is amended to mean a nonprofit corporation operating exclusively in Washington that has received federal LSC funding or funding from the PSEA before July 1, 1997.

The authorization for legal aid programs to represent people in “entitlement” cases and unemployment compensation cases is removed. The following cases are added to the list of cases a legal aid program may participate in using state funds: (1) Social Security cases; (2) mortgage foreclosures; (3) home protection bankruptcies; (4) consumer fraud and unfair sales practices; (5) rights of residents of long-term care facilities; (6) wills, estates, liv-

ing wills; (7) elder abuse; (8) guardianship; and (9) all housing cases instead of only public housing cases.

The restrictions imposed by federal law no longer apply. However, the following restrictions are specifically added to the existing prohibition against lobbying and class action suits:

- grassroots lobbying;
- participating in or identifying the legal aid program with prohibited political activities (including advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure, and voter registration or transportation activities);
- representation in fee-generating cases, unless (1) the case has been rejected by the local lawyer referral service or two private attorneys; (2) the case would not be considered by the private bar without a consultation fee; (3) past attempts to refer similar cases to the private bar have failed; or (4) there is an emergency.
- organizing any association, federation, or union, or representing any labor union;
- representation of undocumented aliens;
- picketing, demonstrations, strikes, or boycotts;
- engaging in inappropriate solicitation; and
- conducting training programs that advocate particular public policies, encourage or facilitate political activities, labor or anti-labor activities, and other various activities.

Rule-making activity is added to the definition of lobbying. The restrictions and requirements apply only to money appropriated by the Legislature from the PSEA and from other state funds or accounts.

The Department of Community, Trade and Economic Development (CTED) must establish a distribution formula based on the distribution of indigent people by county. The CTED may establish client contributions, including copayment and sliding fee scale requirements. Expenditure of state funds must be audited annually by an independent outside auditor, and may be audited by the state auditor. The legal aid program must make available to the auditors case-specific information, except for confidential and privileged information. The CTED must recover or withhold amounts that have been improperly used. The CTED is authorized to adopt rules.

A bipartisan, bicameral legislative oversight committee is established, which must meet at least four times during each fiscal year and accept public testimony in at least two meetings.

**Votes on Final Passage:**

House	98	0
Senate	45	0

**Effective:** July 27, 1997



**SHB 2279**  
**PARTIAL VETO**  
C 337 L 97

Revising the basic health plan.

By House Committee on Appropriations (originally sponsored by Representatives Huff and Backlund).

House Committee on Appropriations

**Background:** In 1995, the Legislature made a number of changes to the Basic Health Plan (BHP). Mental health, chemical dependency treatment, and organ transplant benefits were added. To boost enrollments in the BHP, an entitlement for health insurance agents and brokers to receive a commission for individual or group enrollments in the BHP was created. A process for financial sponsorship of enrollees was put in place. Payments made on behalf of the enrollee are prohibited from exceeding the total premium due from the enrollee.

**Summary:** An agent or a broker may receive a commission for enrolling a person in the Basic Health Plan if funding for the commission is specifically provided. The prohibition against financial sponsor payments exceeding premiums due from the enrollee is deleted. Chemical dependency, mental health, and organ transplant benefits may be offered by the Basic Health Plan if funding is available. A person who solicits applications for the BHP is required to comply with the insurance code, including the requirement to be licensed as an agent.

Four technical and clarifying amendments are made to the Health Insurance Reform Act (enacted this session as ESHB 2018). Two amendments clarify statutory references. One amendment clarifies that underwriting for the high-risk pool is to be based on the rules for the small group rather than the individual market to prevent gender inequity. The last amendment provides a definition for "covered person" which was mistakenly deleted in the Health Insurance Reform Act.

**Votes on Final Passage:**

House	55	42	
Senate	27	20	(Senate amended)
House			(House refused to concur)

**First Conference Committee**

Senate			(Senate refused to adopt)
House			(House refused to adopt)

**Second Conference Committee**

Senate	47	0
House	56	42

**Effective:** July 1, 1997 (Sections 1 & 2)  
July 27, 1997

**Partial Veto Summary:** The Governor vetoed two technical corrections to ESHB 2018.

**VETO MESSAGE ON HB 2279-S**

May 13, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 3 and 4, Substitute House Bill No. 2279 entitled:

"AN ACT Relating to the basic health plan;"

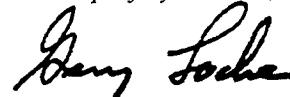
I have vetoed sections 3 and 4 of SHB 2279 because they amend sections of ESHB 2018 that I have already vetoed. Section 3 makes reference to Section 203 of ESHB 2018 which would have limited the open enrollment period for health insurance to two months per year. This section represents a significant change to current policy and could require individuals to wait as long as 13 months for regular health insurance coverage.

Section 4 of SHB 2279 makes reference to section 204 of ESHB 2108 which would have allowed health carriers the option to discontinue or modify a particular plan with ninety days' notice to enrollees, with no requirement that comparable benefits be offered in another plan. Again, this a significant change to current law which requires that carriers may not discontinue a plan unless the carrier offers a comparable product as an alternative.

For these reasons, I have vetoed sections 3 and 4 of Substitute House Bill No. 2279.

With the exception of sections 3 and 4, I am approving Substitute House Bill No. 2279.

Respectfully submitted,



Gary Locke  
Governor

**E3SHB 3900**

C 338 L 97

Revising the Juvenile Code.

By House Committee on Appropriations (originally sponsored by Representatives Sheahan, Ballasiotes, Schoesler, Bush, Honeyford, Carrell, Chandler, Mitchell, Clements, Huff, Thompson, Hankins, Mulliken, Koster, Carlson, Cairnes, Cooke, Johnson, Skinner, Mastin, Smith, Crouse, Benson, Alexander, Talcott, Robertson, Lisk, Zellinsky, Boldt, Delvin, Sterk, Lambert, Hickel, Backlund and Pennington).

Senators Roach, Schow, Horn, Swecker, Zarelli, Johnson, Rossi, Sellar, Hale, Hochstatter, McCaslin, Oke, Stevens, McDonald, Morton, Deccio, Benton, Anderson, Finkbeiner, Strannigan.

House Committee on Law & Justice  
House Committee on Criminal Justice & Corrections  
House Committee on Appropriations

**Background:**

**I. Juvenile Court Jurisdiction**

The juvenile court is a division of superior court. It generally has exclusive original jurisdiction over a juve-

nile under the age of 18 who is alleged to have committed an offense, traffic infraction, or violation. There is no specific provision granting the juvenile court jurisdiction over civil infractions.

A juvenile may be prosecuted as an adult in adult criminal court if the juvenile is subject to "automatic decline" or if the juvenile court declines to exercise jurisdiction over the juvenile after a decline hearing.

A. Automatic Decline: A juvenile must be automatically prosecuted as an adult if the juvenile is 16 or 17 years old and the alleged offense is: (1) a serious violent offense; or (2) a violent offense and the offender has a specified level and type of criminal history.

B. Decline Hearings: The juvenile court may decline to exercise jurisdiction over a juvenile offender and may transfer the offender to adult court under a procedure called a decline hearing. The prosecutor, the juvenile, or the court may file a motion for the transfer of any juvenile to adult court.

The court must hold a decline hearing, unless waived by all parties, if the juvenile is: (1) 15, 16, or 17 years old and the alleged offense is a class A offense; or (2) 17 years old and the alleged offense is second-degree assault, first-degree extortion, indecent liberties, second-degree child molestation, second-degree kidnaping, or second-degree robbery.

## II. Disposition Standards

If a juvenile is adjudicated of an offense, the court determines the offender's disposition based on a formula that considers the following factors: (1) the seriousness level of the current offense; (2) the age of the offender; (3) the seriousness level of any prior criminal history; and (3) the recency of any prior criminal history.

Based on these four factors, the juvenile offender receives a certain number of "points" that will determine the standard range disposition for the offense, based on whether the offender is a "minor/first," "middle," or "serious" offender.

A. Offense Category Schedule: The seriousness of an offense is determined according to the offense category schedule. The offense category schedule ranks offenses from A+ to E, with A+ offenses being the most serious and E offenses being the least serious. Murder in the first degree and murder in the second degree are the only A+ offenses.

B. Standard Range Disposition: The standard range disposition for an offender is determined by reference to a "grid" developed for each category of offender (minor/first, middle, or serious) that specifies the standard range based on the number of points calculated for the offender. A juvenile is generally under county jurisdiction if the offender is subject to a period of confinement of 30 days or less and under state Juvenile Rehabilitation Administration (JRA) jurisdiction if the offender is subject to confinement for more than 30 days.

In general, a minor/first offender is not subject to a disposition of confinement. A minor/first offender may

receive community supervision, community service hours, and a fine. A middle offender with fewer than 110 points is under the jurisdiction of the county and may receive community supervision, community service hours, a fine, and in some cases, a period of confinement. A middle offender with more than 110 points is generally committed to the JRA, with a minimum commitment range of 8-12 weeks. A serious offender must be committed to the JRA. The minimum commitment range for an offender committed to JRA is 8-12 weeks. An offender who commits an A+ offense receives a commitment range of 180-224 weeks.

### C. Disposition Alternatives:

1. Deferred Adjudication: Some offenders are eligible for deferred adjudication. The adjudication and disposition for an offense may be deferred on the condition that the offender meet conditions of community supervision. If the offender complies with all conditions imposed by the court, the case is dismissed with prejudice and is not included in the offender's criminal history.

2. Option B: Minor/first offenders and middle offenders with less than 110 points may receive an "option B" disposition of up to 12 months of community supervision, up to 150 hours of community service, and/or a fine of up to \$100, and for middle offenders with less than 110 points, up to 30 days of confinement.

A middle offender with more than 110 points is eligible for an "option B" suspended sentence. The court imposes the standard range disposition of confinement in the JRA and then suspends that disposition on the condition that the offender comply with conditions of community supervision and serve up to 30 days of confinement at the county level.

3. Manifest Injustice: "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would pose a serious and clear danger to society. If the court finds that the standard range disposition would effectuate a manifest injustice, the court may impose a disposition outside the standard range. A manifest injustice disposition is available for minor/first, middle, and serious offenders.

4. Special Sex Offender Disposition Alternative (SSODA): Certain juvenile sex offenders may be ordered into treatment in the community and be placed on community supervision for up to two years rather than serve a longer period in confinement. If the offender fails to comply with the treatment and supervision requirements, the offender is returned to custody. The state pays for the costs of initial evaluation and treatment of juvenile sex offenders who receive a SSODA disposition.

5. Firearms Enhancements: A juvenile found to have committed the offense of minor in possession of a firearm must receive a determinate disposition of 10 days of confinement and up to 12 months of community supervision. A juvenile who is armed with a firearm during the commission of a violent offense or certain other offenses must receive a firearms enhancement of 90 days of confinement

added to the standard range disposition. A firearm enhancement may run concurrently with a term of confinement imposed in the same disposition for other offenses.

6. *Juvenile Offender Basic Training Camp*: A juvenile offender who is subject to a disposition of not more than 78 weeks and who did not commit a violent offense or a sex offense is eligible for a 120-day basic training camp option. Upon successful completion of the basic training camp, the offender may serve the remaining term of confinement on intensive parole in the community.

### III. Parental Involvement

When a juvenile is charged with an offense, the court must send the charging information to the juvenile's parents in order to notify them of the charges and to require them to appear and be parties to the arraignment proceedings. Parents are not required to appear at other hearings involving the juvenile.

Communications between an alleged juvenile offender and the juvenile's attorney are privileged, and the court may not compel the attorney to disclose those communications. This privilege does not extend to communications made to the juvenile's attorney while the juvenile's parent is present.

### IV. Restitution

A juvenile offender is required to make restitution payments to compensate any person who suffered loss or damage as a result of the juvenile's offense. The court must determine the restitution amount in the disposition hearing and must include the payment of restitution in the order of disposition. The court does not have to impose restitution if the court determines that the juvenile lacks the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a 10-year period.

### V. Parole

When a juvenile is released from confinement after serving the disposition term ordered by the court, the Department of Social and Health Services (DSHS) may require the juvenile to comply with a program of parole. Parole may extend for a period no longer than 18 months, except for certain sex offenders whose period of parole must be 24 months. The parole program must include requirements that the juvenile refrain from possessing firearms or deadly weapons and refrain from committing new offenses. In addition, the parole program may require the juvenile to comply with a number of conditions, including requirements to undergo available medical or psychiatric treatment, pursue a course of study or vocational training, and report to a parole officer.

The secretary of the DSHS has authority to issue an arrest warrant for a juvenile who escapes from an institution. The secretary does not have explicit power to issue an arrest warrant for a juvenile offender who absconds from parole supervision or fails to meet conditions of parole.

### VI. Appeals

A juvenile disposition that is outside the standard range disposition may be appealed. The court of appeals may uphold a disposition outside the standard range only if it finds that the reasons considered by the juvenile court judge clearly and convincingly support a finding of manifest injustice and that the sentence imposed was not clearly excessive or clearly too lenient. If the court of appeals determines that the manifest injustice finding was not clearly and convincingly supported by the reasons of the juvenile court judge, the court of appeals must remand the case for disposition within the standard range or for community supervision without confinement, if appropriate.

While an appeal is pending, the juvenile offender may not be committed or detained for a period in excess of the standard range for the offense, or 60 days, whichever is longer. Once this period expires, the court may impose conditions on the release of the offender pending the appeal.

### VII. Juvenile Records

A juvenile adjudicated of an offense may petition the court to vacate its order of adjudication and order the record sealed or destroyed. The court must grant the motion to seal if the court finds that two years have elapsed and that no criminal proceeding is pending against the person. If the court grants the motion, the proceedings are treated as if they never occurred.

A subsequent adjudication of a juvenile offense or crime nullifies a sealing order. A subsequent conviction for an adult felony nullifies the sealing order on records of prior juvenile adjudications for class A offenses or sex offenses.

A person may petition the court to destroy the person's juvenile record. The court may grant the motion if the court finds that the person is at least 23 years old, has not subsequently been convicted of a felony, has no criminal proceeding currently pending, and has never been found guilty of a serious offense. A person who is 18 and whose entire criminal history consists of one diversion may have the record destroyed if two years have elapsed since the completion of the diversion agreement.

### VIII. Miscellaneous Juvenile Provisions

A. Community-Based Rehabilitation and Sanctions: "Community-based sanctions" and "community-based rehabilitation" are components of "community supervision," which is a disposition that the court may impose on an adjudicated youth. Community-based sanctions include a fine not to exceed \$100 and community service hours. Community-based rehabilitation includes attendance at school, counseling, treatment programs, and other informational or educational classes.

B. Courtesy Disposition Hearings: If a juvenile is adjudicated in one county, but resides in another, the case may be transferred to the offender's county of residence for the disposition hearing. The jurisdiction that receives

the transfer of the juvenile is responsible for the costs of the transfer.

C. Violations of Orders to Pay Monetary Penalties or Perform Service: When a juvenile offender violates an order of the court, the court may impose additional sanctions on the juvenile for that violation, including confinement for up to 30 days. If the violation is of a court order to pay fines, penalties, or restitution, or to perform community service hours, the court may assess confinement at a rate of one day per each \$25 or eight hours owed.

**IX. Adult Provisions**

A. Inclusion of Juvenile Adjudications in an Adult's Criminal History: Some, but not all, juvenile criminal history is included in an adult's offender score, which is used to determine the adult's sentence. Juvenile adjudications for sex offenses and serious violent offenses are always included in an adult offender's criminal history. Prior juvenile adjudications for other class A felony offenses are counted if the offender was 15 or older at the time of the offense. Prior adjudications for class B and C offenses or serious traffic offenses are counted if the offender was 15 or older at the time of the juvenile offense, and less than 23 at the time of the adult offense for which he or she is being sentenced.

Prior juvenile adjudications that are entered or sentenced on the same date count only as only one prior offense, except that if the offenses were violent offenses with separate victims, the offenses are counted separately.

Under the adult sentencing code, a "first-time offender" is eligible for a waiver of the standard range sentence on the condition that the offender meet certain conditions. A "first-time offender" is an adult who is convicted of a felony that is not a violent or sex offense or certain drug offenses. A juvenile adjudication before the age of 15 does not count as a prior felony except for sex offenses and serious violent offenses.

B. Special Sex Offender Sentencing Alternative (SSOSA) Costs: SSOSA is a discretionary sentencing option allowing a judge to give an eligible sex offender a suspended sentence, including sex offender treatment in the community, if doing so will benefit the community and the offender. The costs of sex offender treatment under a SSOSA sentence must be paid by the offender.

C. Housing and Education of Offenders Under the Age of 18: An offender under the age of 18 who is convicted in adult criminal court and sentenced to the Department of Corrections (DOC) may be transferred to the JRA under certain circumstances. The Secretary of the DOC makes an independent assessment of the offender to determine whether the offender's needs and correctional goals would be better served if the offender is housed in a juvenile facility. If the Secretary of the DSHS accepts the offender, the offender may reside in a JRA facility until age 21. The secretaries must review the placement regularly with a determination based on the offender's maturity and sophistication, behavior and

progress, security needs, and program and treatment alternatives.

The DOC may place an inmate in education programs designed to allow the inmate to achieve a high school diploma or the equivalent to the extent those programs are available. There is no statutory requirement for the DOC to provide a program of basic education to an inmate who is under the age of 18.

**X. Miscellaneous Provisions**

A. Reckless Endangerment in the First Degree: A person is guilty of reckless endangerment in the first degree if the person recklessly discharges a firearm from a motor vehicle or the immediate area of a motor vehicle in a manner that creates a substantial risk of death or serious physical injury. First-degree reckless endangerment is a class B felony and is not included as a "violent offense."

B. Violence Reduction and Drug Enforcement Account: Revenue from various taxes, including taxes on alcohol, cigarettes, and carbonated beverage syrup, is deposited into the violence reduction and drug enforcement account (VRDE). The account funds a variety of programs, such as substance abuse treatment and juvenile rehabilitation programs, including incarceration.

A portion of the motor vehicle excise tax (MVET) is distributed to local governments through the county criminal justice assistance account and the municipal criminal justice assistance account. Distributions to these accounts may grow only at the rate of inflation. MVET revenues in excess of this cap are deposited into the general fund.

**Summary:**

**I. Juvenile Court Jurisdiction**

A. Automatic Decline: The category of juvenile offenders who are subject to automatic decline to adult court is expanded to include any juvenile who is 16 or 17 and alleged to have committed: robbery in the first degree; rape of a child in the first degree; drive-by shooting; burglary in the first degree if the offender has a prior adjudication; or any violent offense if the offender was armed with a firearm.

B. Decline Hearings: A mandatory decline hearing must be held for an escape charge if the juvenile is serving a minimum disposition to age 21.

C. Civil Infractions: The juvenile court is specifically granted jurisdiction over juveniles alleged to have committed a civil infraction.

**II. Disposition Standards**

A. Offense Category Schedule: The following changes are made to the offense category schedule:

- Reckless endangerment in the first degree is renamed "drive-by shooting" and is increased from a B to a B+ offense.
- Vehicle prowling is increased from a D to a C offense.
- Obstructing a law enforcement officer is increased from an E to a D offense.
- Rape of a child in the second degree is increased from a B to a B+ offense.

- Child molestation in the first degree is increased from a B+ to an A- offense.
- Child molestation in the second degree is increased from a C+ to a B offense.
- Residential burglary, theft of a firearm, and possession of a stolen firearm are specifically ranked as B offenses.

B. Standard Range Disposition: The current structure for determining an offender's standard range disposition is replaced with a new disposition grid that is based on two factors: the seriousness of the current offense and the number of prior adjudications. Prior felony adjudications count as one point and prior misdemeanor and gross misdemeanor adjudications count as 1/4 point in determining the number of prior adjudications. The age of the offender, the recency of prior adjudications, and the distinction between minor/first, middle, and serious offenders are no longer considered in determining the standard range disposition.

Based on the current offense seriousness level and the number of prior adjudications, a juvenile offender will receive a standard range disposition of either local sanctions or commitment to the Juvenile Rehabilitation Administration (JRA).

1. *Local Sanctions*: Local sanctions may consist of up to 30 days of confinement, up to 12 months of community supervision, up to 150 hours of community service hours, and up to a \$500 fine. A misdemeanor or gross misdemeanor offender receives a standard range disposition of local sanctions, regardless of prior adjudications.

2. *Commitment to the JRA*: The minimum JRA commitment range is increased to 15-36 weeks, except that a 15, 16, or 17 year old offender adjudicated of an A- offense receives a standard range disposition of 30-40 weeks. An offender who commits an A+ offense must be committed to the JRA for 180 weeks up to age 21.

### C. Disposition Alternatives:

1. *Deferred Adjudication*: Deferred adjudication is replaced with deferred disposition. If a juvenile pleads guilty, or after a determination of guilt is made upon a reading of the record, the court may continue the case for disposition for up to one year and place the juvenile on community supervision. If the juvenile complies with all conditions of the deferral, the juvenile's adjudication is vacated and the case is dismissed with prejudice. A juvenile is not eligible for a deferred disposition if the current offense is a sex offense or violent offense, the juvenile's criminal history consists of any felony, or the juvenile has a prior deferred disposition, or more than two diversions.

2. *Option B*: The "option B" disposition alternative, which allows a judge to suspend a disposition of confinement to the JRA and place the offender in the community for supervision, is eliminated.

3. *Manifest Injustice*: The seriousness of prior adjudicated offenses may be considered by the court for the

purposes of imposing a disposition outside the standard range.

4. *Special Sex Offender Disposition Alternative (SSODA)*: If the court determines that an offender is eligible for the SSODA, the court may impose and then suspend a manifest injustice disposition in order to provide a greater incentive for the offender to comply with the conditions of the SSODA disposition. The length of community supervision that may be imposed on an offender given a SSODA disposition is changed to at least two years.

5. *Firearms Enhancements*: The disposition that the court must impose for an offender who is found in violation of minor in possession of a firearm is changed to at least 10 days. The firearm enhancement imposed on a juvenile who is armed with a firearm during the commission of an offense is changed to apply to any felony offense, other than firearm-related offenses. The enhancement is six months for a class A felony, four months for a class B felony, and two months for a class C felony. The firearm enhancement must run consecutively to any other term of confinement imposed for other offenses.

6. *Juvenile Offender Basic Training Camp*: Eligibility for the basic training camp is changed to those offenders who receive a disposition of up to 65 weeks of confinement.

7. *Chemical Dependency Disposition Alternative (CDDA)*: A new disposition option is created for certain juveniles who are chemically dependent and who will benefit from a chemical dependency disposition. An offender with a standard range disposition of local sanctions or commitment to JRA for 15-36 weeks and who has not committed an A- or B+ offense is eligible for this disposition. The court may suspend the standard range disposition on the condition that the offender undergo available outpatient or inpatient drug/alcohol treatment and comply with conditions of community supervision. The court may impose up to 30 days of confinement. The sum of confinement time and inpatient treatment may not exceed 90 days.

### III. Parental Involvement

A new goal of the juvenile justice system is to encourage and require parents to participate when juvenile offender proceedings are brought against their child. The court is required to give a parent notice of pertinent hearings, must require the parent to attend, and may hold the parent in contempt of court for failing to attend.

A limited testimonial privilege is established for communications made between a child and an attorney in the presence of a parent. A parent may not be examined concerning a communication between the parent's child and the child's attorney made in the presence of the parent and after the child's arrest.

A juvenile who is detained as an alleged offender may be released only to a responsible adult or the DSHS.

**IV. Restitution**

In a disposition hearing, the court may set a hearing for a later date to determine the amount of restitution owed, rather than making that determination at the disposition hearing. The court may no longer decline to impose restitution on an offender who does not have the means to make full or partial restitution.

**V. Parole**

Certain sex offenders may receive up to 36 months of parole if the secretary of the Department of Social and Health Services (DSHS) determines that the extended parole period is necessary in the interests of public safety, or to meet the ongoing needs of the juvenile. The conditions of parole that may be imposed on a juvenile offender who is released from custody are expanded. The DSHS must base a decision to place an offender on parole on an assessment of an offender's risk of re-offending. The DSHS must prioritize parole resources to provide supervision to moderate to high-risk offenders.

An intensive supervision program is created as part of parole for up to the 25 percent highest-risk offenders. An offender placed on intensive supervision must comply with all conditions of parole and meet added conditions, including more frequent contact with the community case manager. The DSHS must implement an intensive supervision program no later than January 1, 1999, and must report annually to the Legislature on progress in meeting the goals of the intensive supervision program.

The secretary of the DSHS is given authority to issue arrest warrants for juveniles who abscond from parole or fail to meet parole conditions.

**VI. Appeals**

If the court of appeals determines that the juvenile court's reasons for finding a manifest injustice are not clearly and convincingly supported, the court of appeals must remand the case for a disposition within the standard range. The time restrictions that apply when detaining a juvenile pending appeal are removed. The juvenile may be detained for the entire appeal period, even if this period exceeds the standard range disposition for the offense.

**VII. Juvenile Records**

The requirements for the sealing of a juvenile's records are changed. Juvenile records relating to class A or sex offenses may not be sealed. Juvenile records relating to class B offenses may be sealed if the offender has spent 10 years in the community without committing an offense. Juvenile records relating to class C offenses may be sealed after the offender has spent five years in the community without committing an offense. A juvenile record for any offense may not be sealed until the offender has paid full restitution. The subsequent charging of an adult felony nullifies a sealing order on the offender's juvenile records.

The ability to destroy the records of a juvenile offender, other than an offender who only has a history of one diversion, is removed.

**VIII. Miscellaneous Juvenile Provisions**

**A. Community-Based Rehabilitation and Sanctions:** The definition of "community-based sanction" is amended to increase the amount of the fine to \$500. The definition of "community-based rehabilitation" is amended to include employment and literacy classes.

**B. Courtesy Disposition Hearings:** The ability of a court to transfer a disposition hearing to the jurisdiction where the juvenile offender resides is removed.

**C. Violations of Orders to Pay Monetary Penalties or Perform Service:** The provision specifying that violations of orders to pay monetary penalties or to perform community service are converted to confinement at a rate of one day for each \$25 or eight hours is removed.

**D. Community Juvenile Accountability Act:** A community juvenile accountability grant program is created to enable local communities to develop and administer community-based programs designed to reduce youth violence and juvenile crime. Local governments may submit proposals to the DSHS for grants to fund community-based juvenile accountability and intervention programs that meet specified guidelines. Community juvenile accountability programs that are funded must comply with information collection requirements and reporting requirements.

**E. Definition of "Adjudication":** "Adjudication" is defined to mean the same as "conviction" under the adult sentencing reform act. The terms must be construed identically and may be used interchangeably.

**F. Guardian Ad Litem:** A guardian ad litem is not required in a proceeding in a court of limited jurisdiction where the alleged offender is 16 or 17 years old and the alleged offense is a traffic, fish, boating, or game offense, or a traffic or civil infraction.

**IX. Adult Provisions**

**A. Inclusion of Juvenile Adjudications in an Adult's Criminal History:** An adult's criminal history includes all juvenile adjudications, regardless of the age of the juvenile at the time of the offense. Prior juvenile adjudications entered or sentenced on the same date are counted as separate offenses, unless they encompass the same criminal conduct.

A juvenile adjudication for a felony offense committed before the age of 15 counts as a prior offense in determining whether an adult offender is a "first-time offender."

**B. Special Sex Offender Sentencing Alternative (SSOSA) Costs:** The state must pay the costs of the initial examination and treatment of an offender under adult court jurisdiction who is less than 18 and who is given an SSOSA sentence.

**C. Housing and Education of Offenders Under the Age of 18:** An offender under the age of 18 who is convicted in adult criminal court and sentenced to the Department of Corrections (DOC) must be placed in a housing unit, or a portion of a housing unit, separated from adult inmates. The offender may be housed in an intensive management unit or administrative segregation

unit if necessary for the safety or security of the offender or the staff. An offender under the age of 18 who is convicted in adult criminal court and sentenced to jail must be placed in a jail cell that does not contain adult offenders.

The DOC must provide a program of education to an inmate under the age of 18 who has not met high school or general equivalency degree (GED) requirements. The DOC must provide the inmate with a choice of a curriculum that will assist the inmate in achieving either a diploma or a GED.

**X. Miscellaneous Provisions**

A. Reckless Endangerment in the First Degree: Reckless endangerment in the first degree is renamed "drive-by shooting" and added to the definition of "violent offense."

B. Violence Reduction and Drug Enforcement Account: Motor vehicle excise tax revenues in excess of the inflation cap must be deposited into the violence reduction and drug enforcement account (VRDE). Funds from the VRDE account may be appropriated to reimburse local governments for costs associated with implementing criminal justice legislation, including this act.

C. Repealers: A provision requiring the Sentencing Guidelines Commission to submit a report on juvenile disposition standards to the Legislature by December 1, 1996, is repealed. A provision establishing the Juvenile Disposition Standards Commission, which ceased to exist on June 30, 1996, is repealed. A provision requiring prosecutors to develop prosecutorial filing standards in juvenile cases based on a 1993 report is repealed.

D. Studies: The University of Washington must develop standards to measure the effectiveness of chemical dependency treatment programs for juvenile offenders by January 1, 1998. The JRA must use the standards to prioritize expenditures for treatment.

The Sentencing Guidelines Commission must review conviction data for the past 10 years and submit a proposed bill that ranks all unranked felony offenses for which there have been convictions.

The Institute for Public Policy must develop standards for measuring the effectiveness of community juvenile accountability programs by January 1, 1998, and evaluate the costs and benefits of programs funded under the Community Juvenile Accountability Act by December 1, 1998 and December 1, 2000. The Institute is required to study the sentencing revisions of this act starting January 1, 2001 and report its findings by July 1, 2002. The Institute must develop a uniform definition of "recidivism" by December 31, 1997.

**Votes on Final Passage:**

House	70	28	
Senate	39	10	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	45	0
House	98	0

**Effective:** July 1, 1997

July 1, 1998 (Sections 10, 12, 18, 24-26, 30, 38, & 59)

**EHB 3901**  
**PARTIAL VETO**  
C 58 L 97

Implementing the federal personal responsibility and work opportunity reconciliation act of 1996.

By Representatives Cooke, Boldt, McDonald, Alexander, Bush, Smith, Mielke, Talcott, Cairnes, Reams, Johnson, Huff, Lambert, Sheahan, Mulliken, Parlette, Backlund, Koster, D. Sommers, D. Schmidt, Schoesler, Wensman and Skinner.

Senators Deccio, Wood, Benton, Stevens, Rossi, Zarelli, Swecker, Long, McCaslin, Strannigan, Hochstatter, Oke, Horn, Newhouse, Johnson, Sellar, McDonald, Hale, Prince, Morton, Anderson, Roach, Finkbeiner, Winsley, Schow, West.

Senate Committee on Health & Long-Term Care

**Background:** Prior to January 1997, Washington operated a welfare program for low-income families with children called Aid to Families with Dependent Children (AFDC). If a family had children under the age of 18 and met income and resource standards, the family was eligible for assistance. The family had a legal entitlement to monthly cash payments and medical coverage through the Medicaid program. This assistance continued as long as the family met the eligibility criteria.

In 1996, the U.S. Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This federal welfare reform legislation replaced the former AFDC assistance program for low-income families with a new program called the Temporary Assistance for Needy Families (TANF) program. Under the federally funded welfare system, the states must implement the reforms required by the Congress.

The new federal welfare reform law fundamentally changes the way low-income families will receive assistance from the federal and state governments. The individual entitlement to assistance is ended and replaced with a maximum five years of assistance during a person's lifetime. A capped federal block grant is provided to a state in lieu of an uncapped federal funding formula based on the state's welfare caseload. An individual receiving assistance under the new TANF program is required to work. States are required to suspend the drivers' licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support.

The Congress stated the following goals of welfare reform in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996:

- (1) provide states greater flexibility in assisting needy families;
- (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing these pregnancies; and
- (4) encourage the formation and maintenance of two-parent families.

Under the federal law, a state may exercise several options in developing a TANF program. The options include issues such as eligibility standards, time limits, work participation requirements, sanctions for caretakers who do not comply with program requirements, grant payment amounts, support services such as child care and social services, family caps, requiring school attendance for teenage parents, teen pregnancy reduction programs, and denying assistance to unmarried teen parents.

All states must submit plans to the federal government detailing how each state will deliver services to low-income families through the new TANF program. The state must provide a 45-day comment period on the plan, and the plan must be in place no later than July 1, 1997. In Washington, Governor Lowry submitted a TANF plan to the federal government on November 16, 1996, which took effect January 10, 1997. This plan maintains the welfare system that was in place in Washington prior to passage of the federal welfare reform legislation.

**Summary:** Washington's TANF plan submitted to the federal government in 1996 is voided and a new TANF program, under the Washington WorkFirst Temporary Assistance for Needy Families Act, is established.

**Temporary Assistance for Needy Families.** The entitlement to public assistance is removed. A recipient of TANF may receive a maximum of 60 months of assistance in his or her lifetime. Up to 20 percent of the TANF caseload may be exempted from the time limits based on hardship or the family violence options of federal law.

An applicant for TANF who has resided in Washington for fewer than twelve months immediately preceding application is limited to the benefit level in the state in which the person resided immediately before Washington. A TANF recipient may earn and keep 50 percent of his or her earned income without affecting his or her eligibility for TANF. A recipient may own a vehicle valued at \$5,000 and keep an additional \$3,000 in a savings account.

The DSHS must operate a grant diversion program to provide brief emergency assistance for families in crisis as a method of reducing dependence on the TANF program. The DSHS must also operate a program creating individual development accounts to help TANF recipients attend school, purchase homes for first-time home buyers, and capitalize business ventures.

The DSHS is authorized to exempt a county from the food stamp work requirements for single individuals between the ages of 18 and 50, unless the DSHS receives a notice of an official action by the county's governing authority objecting to being exempted.

**Immigrant Coverage.** The state's option under federal law to continue public assistance services to legal immigrants is exercised. The stated policy distinguishes between those legal immigrants residing in the United States before enactment of the federal welfare reform law and those immigrating to the United States after passage of the law. Postenactment immigrants are subject to a five-year benefit exclusion and other requirements. (See SB 6098 for changes in public assistance coverage for legal immigrants.)

**Washington WorkFirst Program.** The Department of Social and Health Services (DSHS) is required to meet federal work participation rates using allowable federal work activities. An adult in a family receiving TANF is required to participate in job search and work activities. A system of competitive, performance-based contracting for welfare-to-work services is established. A variety of contractors, including public agencies, may assist those on TANF in seeking work. Outcome measures and performance standards are used to evaluate contracts and agency performance. A recipient of TANF who is placed in work or community service may not displace a current employee and is protected by wage and hour laws and workplace safety standards.

**Child Care.** Within available funds, the DSHS must administer an integrated child care program serving families with incomes of up to 175 percent of the federal poverty level. Copayments, determined on a sliding scale, are required. Child care resource and referral agencies are directed to provide priority service to TANF recipients and low-income working families.

The DSHS is directed to train 250 TANF recipients to become child care providers. Recipients trained to be child care providers are required to provide two years of service to DSHS clients following their training.

**Teen Parents.** The DSHS must determine the "most appropriate living situation" for a TANF applicant under the age of 18, unmarried, and either pregnant or responsible for the care of a minor child. If the applicant does not live in the appropriate setting and comply with other program requirements, the applicant may not receive a cash payment. The "most appropriate living situation" does not include residence with the adult father who is found by the DSHS to meet the elements of rape of a child.

The Department of Health is directed to apply for federal abstinence education funds made available by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

**License Suspension.** A process is established for suspending the occupational, professional, recreational, and driver's license of a parent who fails to pay child support or violates a residential or visitation order. The DSHS is



VETO MESSAGE ON HB 3901

April 17, 1997

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections or subsections 1, 105(3), 109, 202, 203, 205, 206, 207, 306, 312, 318, 319, 320, 328, 329, 402, 504, 706, 802(7)(f), 886, 887, and 1013(1), Engrossed House Bill No. 3901 entitled:

"AN ACT Relating to implementing the federal personal responsibility and work opportunity reconciliation act of 1996;"

Engrossed House Bill No. 3901 creates a sound foundation for a welfare program that reflects the common sense, mainstream values of the people of this state: hard work, hope and opportunity for all. It creates an innovative work-based program that promises to reduce poverty, and to help people get jobs and sustain economic independence.

At the same time, it reflects the desire of the people of this state to protect children and those who are unable to work.

This is an historic change. It reflects our society's belief that government entitlements have fostered dependence among welfare recipients, and discouraged families, communities, non-profit organizations, business and labor from taking on their full share of responsibility for helping to solve the problem of poverty. As a result of the enactment of this legislation, we enter a new era of partnership in which all these sectors will work together to help those in need enter the economic mainstream and become contributing members of our society.

Nonetheless, there are flaws in this legislation that impede our ability to pursue the goal of helping people achieve economic independence. Some of these flaws create a culture of mistrust that is simply counterproductive. Others are overly prescriptive and specific, and would create a rigid, bureaucratic system that is unable to profit from the lessons that will surely be learned in the course of implementing such a sweeping new program.

Section 1

I have vetoed the intent section (together with section 207) of the bill because they reenact some but not all relevant provisions of state law. If we reenact some, but not all, of the state's benefit programs, the state's continuing commitment to the non-reenacted programs is called into question.

Section 105(3)

Section 105(3) would repeal the Consolidated Emergency Assistance Program (CEAP). This program serves needy families in crisis, some of whom would not have access to the Temporary Assistance for Needy Families (TANF) program. CEAP provides short-term aid, at most once a year, to help families with critical needs for food, shelter, clothing and other basics.

Section 109

Section 109 would require that all communications to welfare recipients be easy to read and comprehend and written at the eighth grade level. While I agree completely that communications should be easy to read and comprehend, this provision invites disputes and litigation centered on the arbitrary reading level of communications needed to carry out the WorkFirst program. Mandating a specific reading comprehension level for all written communications could invite lawsuits against the Department of Social and Health Services (DSHS) solely on the basis of meeting this arbitrary test.

Sections 202, 205 and 206

These sections are superseded by Engrossed Senate Bill No. 6098.

Section 203

Section 203 would require DSHS to review the incomes of all seasonal workers over the previous twelve months, before determining eligibility. This would be a great administrative burden and very costly to implement. While I share the legislature's concern about irresponsible parents who might squander income from seasonal work, leaving the family dependent on the

given the option to suspend the license of, or deny issuance of a license to, a parent who is six months behind in his or her child support payments, or who has violated a residential or visitation order twice within three years. Prior to the suspension or denial of a license, the DSHS must give the delinquent parent the opportunity to either contest the DSHS's action, enter into a payment schedule with the DSHS, or have his or her support order modified by a court or the DSHS.

A tax registration or certification may not be suspended for nonpayment of child support. A holder of a limited entry commercial fishery license may have his or her license suspended, but will not permanently lose the license as long as the holder pays the delinquent child support or enters into a schedule of payments within 12 months.

The Department of Licensing must distinguish between drivers' licenses suspended for noncompliance with a child support order and those suspended due to driving-related infractions.

**Other Provisions.** The DSHS is directed to coordinate with Indian tribes that elect to operate a tribal TANF program. The Legislature must specify the amount of state funds to be transferred to a tribe for the administration of its program. The DSHS must adopt rules relating to the appropriate use of state funds provided to Indian tribes.

The Employment Security Department is authorized to share confidential wage information on participants in the TANF work program with the DSHS for the purposes of evaluating the program. A law enforcement officer requesting information from the DSHS on a fugitive is no longer required to furnish a warrant or subpoena.

The Joint Legislative Audit and Review Committee must conduct evaluations of the provisions of the new welfare program.

**Votes on Final Passage:**

House	56	42	
Senate	25	22	(Senate amended)
House	56	42	(House concurred)

**Effective:** July 1, 1997 (Sections 801-887, 889 & 890)

July 27, 1997

January 1, 1998 (Sections 701-704)

October 1, 1998 (Section 944)

**Partial Veto Summary:** The Governor vetoed sections that: (1) were superseded by ESB 6098; (2) specified child care copayments; (3) repealed the consolidated emergency assistance program; (4) made TANF recipients eligible for Jobs in the Environment programs; (5) authorized the private sector to administer public programs; (6) required the proration of WorkFirst cash assistance; (7) required the establishment of paternity with no good cause exemption; (8) suspended licenses for custodial parents who violate residential orders; and (9) provided emergency enactment of several provisions of the legislation.

state during the off-season, there are technical problems in this section.

There is no definition of "seasonal employment" in the law. Using technical definitions, there is hardly an industry or employment which does not have a seasonal aspect. According to the Economic Security Department, the largest seasonal activities in Washington in 1995 included aircraft and parts, department stores, heavy construction, hotels and motels, and resorts and fairs.

For these reasons I am vetoing this section as written, and commit to working with the legislature to craft a remedy to the problem.

**Section 207**

As mentioned above, I have vetoed section 207 (together with section 1) because they unnecessarily reenact certain state laws. Re-enactment of state benefits under state statute is not required for existing state laws and policies affecting immigrants to continue in effect.

Enactment of the bill's intent section and section 207 would reaffirm policy with respect to one state funded program and not others that are potentially affected by 8 U.S.C. 1621. Such action could trigger an exhaustive review of state and local programs, such as public contracts, loans, professional or commercial licenses, and dramatically increase the costs of administration and overhead in providing such benefits. The overall effect would be to decrease efficiency and increase cost at the expense of the benefits offered.

**Section 306**

Section 306 would make TANF recipients eligible for employment or training in any Jobs for the Environment Program on the same basis as displaced natural resource workers. I have vetoed this section because no additional funding is provided to increase training or employment opportunities in that program. As a result, this provision is divisive - it pits TANF recipients against unemployed natural resource workers for jobs in economically distressed communities.

**Section 312**

This section is too detailed. Rather than establish broad program parameters, the legislature has specified minute program elements, including the prescription of the exact number of hours each participant must be in a class room each day. This level of specificity limits program design options without advancing a discernible policy goal.

As the state pursues the challenges of decreasing the size of the welfare caseload and increasing the number of self-sufficient individuals, undue restrictions on program design must be avoided. The ability to achieve the policy goals of section 702 of the bill might have been unintentionally hampered by this section.

**Section 318**

Section 318 would provide unneeded, preemptory limits on what can be considered within collective bargaining agreements.

**Sections 319 and 320**

The public wants and deserves a system that can be held accountable for fair, honest and effective administration of social programs. While the WorkFirst program, with its regional orientation and its emphasis on outcomes, will require a different system from what is currently in place, it is premature to consider a drastic change in program administration. Meeting the aggressive caseload reduction targets demanded by WorkFirst requires that we take advantage of the trained staff we have deployed throughout the state. Our initial efforts must be focused on strengthening our existing infrastructure to meet the historic challenge presented by welfare reform.

**Section 328**

Section 328 would require DSHS to prorate WorkFirst cash assistance benefits. The proration would be based in some way on compliance with work requirements. However, the pro rata basis used to determine WorkFirst grant amounts is not defined in this legislation. This ambiguity would make rule changes difficult and leaves the state open to law suits.

**Section 329**

This provision is not consistent with ESB 6098 which provides eligibility for state benefits to legal immigrants after meeting the one-year residency requirement. By excluding the income of any household member based on "residency, alienage or citizenship", section 329 is overly broad and ambiguous and would result in inequitable treatment of Washington residents.

**Section 402**

Affordable child care is a crucial part of successfully moving people from welfare to work. The copays specified in this provision are higher than a low-income working family can afford. Work does not pay under the schedule in section 402. As written, this provision would hinder WorkFirst participants' ability to take responsibility for their families and become self-sufficient.

I will direct DSHS to implement a modified copay schedule that will support the principles of WorkFirst.

**Section 504**

Currently, grandparent income is considered available to the teen parent and grandchild when the three generations are living together under the same roof. Section 504 would change state law to consider the grandparent's income and resources available even when the grandparents refuse to help the teen parent. This could leave some teen parents and their children ineligible for assistance, and thus without any means of support.

**Section 706**

Establishing paternity is an essential part of promoting personal and family responsibility. It is well recognized that a father can provide his child with vital emotional and financial support. However, under section 706, DSHS would be required to deny aid unless the applicant names the father, with no exceptions. This policy, unlike federal law, does not recognize that exceptional circumstances can exist where the requirement should be waived, such as in cases of domestic violence and rape. By my veto of this section, DSHS will be able to rely on the good cause exemptions in federal law.

**Subsection 802(7)(f) and Sections 886 and 887**

I fully support vigorous collection of all the child support to which families are entitled. Parental responsibility should replace public responsibility for families. However, the bill also contains measures relating to loss of licenses that are not required by PL 104-193, and do not promote the achievement of economic independence. These sections are intended to cause parents who have violated ordered visitation to lose licenses, including drivers, professional, recreational and other licenses.

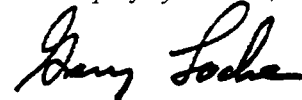
The merits of connecting visitation issues and license loss could be debated and should be. What is not debatable is that this subject is not relevant in a welfare reform bill. To provide for an opportunity for public debate on this issue, I am vetoing sections 886 and 887. I am incidentally vetoing subsection 802(7)(f), since that subsection is a reference to section 887 and is rendered a manifestly obsolete reference.

**Section 1013(1)**

Subsection 1013(1) requires immediate implementation of key parts of this act. Immediate implementation of a quality program is simply not possible. We should not sacrifice efforts to create a well designed program just to save ninety days.

For these reasons I have vetoed sections or subsections 1, 105(3), 109, 202, 203, 205, 206, 207, 306, 312, 318, 319, 320, 328, 329, 402, 504, 706, 802(7)(f), 886, 887 and 1013(1). With the exception of those sections or subsections, I am approving Engrossed House Bill No. 3901.

Respectfully submitted,



Gary Locke  
Governor

## HJM 4000

Honoring law enforcement officers.

By Representatives Sterk, O'Brien, Delvin, Robertson, Mulliken, Dickerson, Thompson, Hatfield, Conway, D. Sommers, Cooper, Boldt, Alexander, Cody, Murray, Costa, Sheahan, Buck, Schoesler, Sherstad, Ogden, Linville, Kessler, L. Thomas, Smith, Dyer, Chandler, Chopp and D. Schmidt.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The Department of General Administration has custody and control over the capitol buildings and grounds, and supervises the proper care, heating, lighting, and repair of the buildings.

The State Capitol Committee consists of the Governor (or a designee), Lieutenant Governor, and Commissioner of Public Lands. The State Capitol Committee is authorized to erect buildings and make improvements on the capital grounds.

The Capitol Campus Design Advisory Committee is composed of eight persons, two members of the House of Representatives (one from each caucus), two members of the Senate (one from each caucus), and five persons appointed by the Governor, two being architects, one being a landscape architect, and one being an urban planner. The Capitol Campus Design Advisory Committee advises the State Capitol Committee on the capitol campus master plan, design and siting of facilities, and landscaping designs, including planting proposals, sculptures, and monuments.

**Summary:** The Legislature urges the Department of General Administration and State Capitol Campus Design Committee to work with the Washington State Law Enforcement Memorial Committee to design and construct a memorial honoring persons who have served as law enforcement officers.

Further, the Legislature urges the Washington State Law Enforcement Memorial Committee to recommend a site for the memorial to the State Capitol Campus Design Advisory Committee.

**Votes on Final Passage:**

House	97	0
Senate	37	0

## HJM 4005

Returning land within the Hanford control zone to agricultural and wildlife uses.

By Representatives Mulliken, Chandler, Hankins, Sheahan, Skinner, Lisk, Delvin, Clements, Honeyford, Schoesler, Mastin, Grant, Mielke and McMorris.

House Committee on Agriculture & Ecology  
Senate Committee on Energy & Utilities

**Background:** Land acquisition by the federal government for the Hanford Reservation was authorized in February 1943. The Wahluke Slope Control Zone, an area north of the Columbia River, was established on November 15, 1943.

The federal Department of Energy has deactivated its reactors at the Hanford Reservation. The department is now in the process of decontaminating the reactors and related areas. As the department goes through this process, it will make decisions on how to remove portions of its lands from Department of Energy control. The Wahluke Slope Control Zone is currently managed as a wildlife area. The U.S. Fish and Wildlife Service manages one portion of these lands, and the Washington State Department of Fish and Wildlife manages the remainder of these lands.

**Summary:** The President of the United States, Congress, and the director of the Department of Energy are requested to reduce, except for needed buffer zones, the present boundaries of the Department of Energy's Hanford Control Zone on the Wahluke Slope to the area south of the Columbia River. They are asked to transfer in total the Wahluke Slope, presently under the custody and control of the Department of Energy, to the counties of Grant, Franklin, and Adams for the purpose of returning the land to its former agricultural use, as well as for wildlife and recreational use in areas along the Hanford Reach.

**Votes on Final Passage:**

House	60	38
Senate	31	15

## HJM 4006

Encouraging greater federal funding of research into finding the cause, prevention, and cure for breast cancer.

By Representatives Mitchell, Ogden, Sehlin, Robertson, Pennington, Lambert, Carrell, Ballasiotes, Radcliff, Delvin, Conway, Hankins, K. Schmidt, Zellinsky, Dyer, Sterk, Sump, Thompson, D. Sommers, Dickerson, Kenney, Cody, Mason, Mielke, Boldt, Costa, Scott, Cole, Johnson, Parlette, Cairnes, O'Brien, Lantz, Hickel, Anderson, Poulsen, Van Luven, Backlund, D. Schmidt, Romero, Alexander, Constantine, Morris, Fisher, Quall, Murray, Hatfield, Kessler, Blalock, DeBolt, L. Thomas, Carlson, Keiser, Wensman, Butler, Cooke, Linville, Sheldon, Gardner, Sullivan, Wolfe, Talcott, Cooper, Chopp, Gombosky, Regala and Doumit.

**Background:** Breast cancer is the most common form of cancer found in women in the United States. Nationally over 180,200 cases of new cases of breast cancer will be diagnosed and nearly 44,000 women will die from the disease. An estimated 1,400 cases will be diagnosed among

## HJR 4208

men nationally. Almost 4,000 women in Washington will be diagnosed with breast cancer and of that number more than 1,000 will lose their lives. While there is no cure for breast cancer, if detected early, it can often be treated effectively. Although some risk factors have been identified, over seventy percent of cases occur in women with no identifiable risk factors. Despite the high breast cancer rate and lack of information about a cause of breast cancer, national funding for breast cancer research has not been increased.

**Summary:** The Washington State Legislature requests the President of the United States and members of the United States Congress to work with cancer activists and recommit to eradicating breast cancer by investing \$2.6 billion in breast cancer research by the year 2000.

### Votes on Final Passage:

House	96	0
Senate	45	0

## HJR 4208

Allowing school levies for four-year periods.

By Representatives Wensman, B. Thomas, H. Sommers, Talcott, Cole, Regala, Constantine, Ballasiotes, Radcliff, D. Schmidt, Carlson, Clements, Dyer, Bush, Johnson, Cairnes, Quall, Morris, Keiser, Linville, Sterk, Dunn, Blalock, Hatfield, Dickerson, Conway, Thompson, Scott, Wood, O'Brien, Backlund, Cooke, Costa, Ogden, Cody, Kessler, Kenney, Cooper and Gardner).

House Committee on Education

**Background:** The Washington State Constitution specifies that propositions to levy additional taxes for school operating purposes must be limited to a period of two years. District operating levies must be reauthorized by the voters every two years.

An amendment to change the state constitution must be approved by a two-thirds majority of both houses of the Legislature, followed by approval of a majority of the people.

**Summary:** A constitutional amendment is proposed to increase the two-year period for authorizing a school operating levy. Propositions to levy additional taxes for school operating purposes may be for a period of up to four years.

The secretary of state is directed to give proper notice of a constitutional amendment to be ratified by the people.

### Votes on Final Passage:

House	94	3
Senate	40	9

## HJR 4209

Authorizing public money derived from the sale of stormwater or sewer services to be used in financing stormwater and sewer conservation and efficiency measures.

By Representatives Chandler, Regala and Mulliken.

House Committee on Agriculture & Ecology  
Senate Committee on Agriculture & Environment

**Background:** Article 8, Section 7 of the Washington Constitution generally prohibits any county, city, town, or municipal corporation from lending its credit or making a gift of public funds to any individual, association, company, or corporation. This section exempts assistance necessary for the support of the poor or infirm.

In 1979, the voters approved an amendment to the Constitution to allow local governments engaged in the sale or distribution of energy to assist homeowners in acquiring and installing equipment and material for energy conservation. This assistance was only authorized until January 1, 1990. In 1988, the voters approved an amendment to this constitutional provision to remove the sunset date for this assistance and to allow the assistance to be provided for more than residential structures. The most recent amendment to this section occurred in 1989 when the voters approved a change to allow local governments engaged in the sale or distribution of water to provide assistance for the conservation or more efficient use of water.

Recent changes in federal law have resulted in greater limits being placed upon what can be discharged into sanitary sewers. In addition, many times when there is a problem with a homeowner's sewer connection or septic system, it is the homeowner who is responsible for making the repairs. Even though these repairs can be quite costly, there is no authority for a local government to provide loans or assist people in making improvements to their stormwater or sewer services.

**Summary:** A constitutional amendment is submitted to the voters to allow local governments engaged in the sale or distribution of stormwater or sewer services to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of those services.

### Votes on Final Passage:

House	97	0
Senate	46	1

**SSB 5003**

C 244 L 97

Providing property tax exemptions for property with an assessed value of less than five hundred dollars.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Loveland, McDonald, Sheldon, Winsley, Goings, Deccio, Rasmussen, Hale, Stevens, Johnson, McCaslin, Rossi, Oke, Zarelli and Roach).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The property tax is applied annually to the assessed value of all property except that which is specifically exempt by law. Taxable property includes both real property and personal property. Real property is land and the buildings, structures, or improvements that are affixed to the land. Personal property includes all property that is not real property.

Because the Legislature has provided tax exemptions for motor vehicles and household goods and personal effects, taxable personal property generally is personal property used in a trade or business. Additionally, the first \$3,000 of taxable personal property for heads of households is exempt. This reduces the personal property tax liability of noncorporate businesses which are subject to the personal property tax on business equipment and supplies.

Persons with taxable personal property are required to report the amount and value of personal property to the county assessor each year.

**Summary:** Each parcel of real property, and each personal property account, that has an assessed value of less than \$500 is exempt from taxation. This exemption does not apply to personal property to which the head of household exemption may be applied or to real property which qualifies for preferential tax treatment.

Counties may sell tax foreclosed property worth less than \$500 to adjoining landowners by negotiation rather than through a call for bids.

**Votes on Final Passage:**

Senate	46	1	
House	97	1	(House amended)
Senate	47	0	(Senate concurred)
Senate	46	0	(Senate reconsidered)

**Effective:** January 1, 1999

**SSB 5005**

FULL VETO

Concerning concurrent and consecutive sentencing for violent offenses.

By Senate Committee on Law & Justice (originally sponsored by Senators Long, Hargrove, McCaslin, Haugen, Zarelli, Johnson, Winsley, Goings, Rasmussen, Oke and Roach).

Senate Committee on Law & Justice  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections

**Background:** When a person is convicted of two or more current violent offenses, even if arising from separate and distinct acts of criminal conduct, the crimes are sentenced concurrently with each other.

When a person is convicted of two or more current *serious* violent offenses arising from separate and distinct criminal conduct, the crimes are sentenced consecutively to each other.

**Summary:** When a person is convicted of two or more current violent offenses arising from separate and distinct criminal conduct, the crimes are sentenced consecutively to each other unless the person's sentence would be longer if he or she was sentenced concurrently.

**Votes on Final Passage:**

Senate	46	3
House	97	1

**VETO MESSAGE ON SB 5005-S**

April 24, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5005 entitled:

"AN ACT Relating to sentencing for multiple violent crimes;"

Under the Washington state sentencing guidelines, certain crimes are defined as "serious violent offenses" and others are defined as "violent offenses". This legislation would dramatically increase the jail time for adult felons who are convicted of two or more "violent offenses" at the same proceeding by mandating that the sentences run consecutively, rather than concurrently.

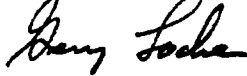
While I strongly agree that criminals who commit several violent crimes at the same time should be punished more severely than those who do not, I am concerned that the language in SSB 5005 is over broad.

Under this legislation, a person convicted of three counts of vehicular assault for injuring three people in the same car crash would automatically be sentenced to three consecutive sentences. In some cases that result may be very appropriate, however in many cases it may not. Our sentencing guidelines already impose enhanced sentences based on multiple victims and other aggravating factors. Judges also must order consecutive sentences for "serious violent offenses" and have the discretion to order consecutive sentences when warranted for "violent offenses".

*I support very stiff sentences for violent offenders, however I cannot agree with over broad legislation that could result in inappropriate or unfair sentences.*

*For these reasons, I have vetoed Substitute Senate Bill No. 5005 in its entirety.*

*Respectfully submitted,*



Gary Locke  
Governor

**SSB 5009**

C 31 L 97

Authorizing interstate agreements to provide adoption assistance for special needs children.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Zarelli, Sheldon, Winsley, Kohl and Patterson; by request of Department of Social and Health Services).

Senate Committee on Human Services & Corrections  
House Committee on Children & Family Services

**Background:** The Department of Social and Health Services provides adoption support for eligible families who adopt children with special needs and would be hard to place without the support payments. This support is treated as a contractual obligation and can last for many years, generally until the child is 18.

The support obligation continues even when the family moves to another state. In such cases, medical and other services are better provided within the new state of residence.

**Summary:** The department is authorized to enter into one or more interstate compacts on behalf of the state with other states to provide procedures for interstate adoption assistance payments, including medical payments.

Certain provisions are required, including a requirement that protections afforded by the compact must continue for families who are receiving assistance on the date of withdrawal from the compact.

A child with special needs residing in this state who is the subject of an adoption assistance agreement with another state is entitled to receive medical assistance from this state, if similar assistance is available in the other state for children adopted in this state under the compact.

**Votes on Final Passage:**

Senate 47 0  
House 97 0

**Effective:** July 27, 1997

**SSB 5011**

**FULL VETO**

Changing the financial and reporting requirements of health care service contractors and health maintenance organizations.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Prentice and Winsley).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Health care service contractors and health maintenance organizations are required to maintain a certain level of net worth. Those amounts currently are \$1,500,000 for health care service contractors and \$1 million for health maintenance organizations.

Limited health care service contractors are defined as providers who offer one health care service such as vision care, dental care, mental health services, or pharmaceutical services. Currently, limited health care service contractors are not required to maintain any particular net worth.

**Summary:** Limited health care service contractors must maintain a minimum net worth of \$300,000. Registered limited health care service contractors currently operating are allowed to meet this requirement incrementally by December 31, 1999.

Health care service contractors must maintain a net worth equal to \$3 million or 2 percent of annual premiums on the first \$150 million of premiums and 1 percent on the premium revenue in excess of that amount, whichever is greater.

Existing health care service contractors may meet this requirement in staged increments by December 31, 1999.

Health care service contractors must file financial statements annually with the Insurance Commissioner and the National Association of Insurance Commissioners.

Health maintenance organizations must maintain a minimum net worth equal to the greater of \$3 million or 2 percent of annual premiums on the first \$150 million of premiums and 1 percent on the premiums in excess of that amount. Existing health maintenance organizations are allowed to meet this requirement in staged increments by December 31, 1999.

Any HMO or HCSC that falls below the net worth requirements must solve the deficiency within 90 days after a deficiency notice from the Insurance Commissioner. If the deficiency is not made good, the contractor is deemed insolvent and may not issue any further individual or group contracts.

**Votes on Final Passage:**

Senate	47	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

**VETO MESSAGE ON SB 5011-S**

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5011 entitled:

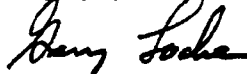
"AN ACT Relating to the financial and reporting requirements of health care service contractors and health maintenance organizations;"

I fully support the proposal in Substitute Senate Bill No. 5011, which raises minimum net worth requirements for health maintenance organizations, health care service contractors and limited health care service contractors operating in Washington State. The intent of this bill, which was requested by the Insurance Commissioner with the support of the industry, is to protect Washington State policyholders by ensuring the solvency of certain health carriers.

However, this bill is identical to Engrossed Substitute House Bill 1064, which I signed into law on April 25, 1997.

For this reason, I have vetoed Substitute Senate Bill No. 5011 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SB 5018**  
C 245 L 97

Making technical corrections to the Revised Code of Washington.

By Senator Roach; by request of Statute Law Committee.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Each year the Statute Law Committee proposes various technical corrections to clear up confusion or correct mistakes in the Revised Code of Washington. These usually include such problems as double amendments to the same section in the same legislative session, amending and repealing the same section in the same session, and inadvertent omission of words on floor amendments.

**Summary:** Double amendments affecting the classification and liability of emergency medical personnel, payments by fire protection districts annexed by cities or towns, water district bidding procedures, and the definition of related persons who are not included in the definition of agency are given effect by reenacting the sections affected by both amendments.

The words "March of", inadvertently omitted from a 1995 floor amendment, are added to the section requiring boards of county commissioners to annually file with the auditor an inventory of capitalized assets.

The requirement that health insurance entities must be certified as health insurance entities was both amended and eliminated by the 1995 Legislature. The section eliminating the requirement is reenacted. Additional corrections requested by the Department of Health are made.

The requirement that the uniform benefits package must be implemented as the schedule of covered basic health care services was both amended and eliminated by the 1995 Legislature. The section eliminating the requirement is reenacted. The words "covered basic health care services", inadvertently omitted from an amendment, are added.

Effect is given to the repeal of a section affecting sewer district bidding procedures which was both amended and repealed by the 1996 Legislature.

**Votes on Final Passage:**

Senate	48	0	
House	95	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 1997

**SSB 5028**

PARTIAL VETO

C 393 L 97

Modifying county treasury management.

By Senate Committee on Government Operations (originally sponsored by Senators Sellar, Swecker and Loveland).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Over time, as county treasurers implement the laws pertaining to the counties' daily operations, the various ambiguities and inconsistencies of the statutes become apparent.

**Summary:** The costs recovered in foreclosure proceedings for collection of delinquent local improvement assessments and water-sewer district liens must include administrative costs. The role of the treasurer to implement, on a daily basis, the investment policies set by the county finance committee is clarified.

The duties of the treasurer and auditor are made consistent. The investment authority language for the proceeds of road improvement bonds and port districts is made consistent with the authority for other county investments.

Taxes and assessments must be collected prior to recording the plat rather than prior to filing the plat.

The deadline for the treasurer's year-end reporting of uncollectible personal taxes, real property taxes and property tax refunds is extended one month, to February.

All special assessments must be included with the taxes eligible to be deferred under the senior citizen and disabled tax deferral program.

The requirement that first class cities pay the county for clerk hiring is repealed. The counties' authority to invest inactive or excess county funds in U.S. government bonds is repealed.

Property cannot be segregated for tax purposes unless all delinquent taxes and assessments on the entire parcel have been paid.

A county treasurer may permit payments of nontax items by credit card without charging a transaction fee. Any amount of property taxes that are in excess of the deposit must still be paid. Honoring the 106 percent limitation is clarified not to result in increased property taxes.

**Votes on Final Passage:**

Senate	48	0	
House	94	1	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The veto reconciles the provisions of this bill with the duplicative provisions of a different bill which was previously signed into law. These provisions concern the senior and disabled citizens' special property tax deferral program.

**VETO MESSAGE ON SB 5028-S**

May 16, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 12, 13, 22, and 23, Substitute Senate Bill No. 5028 entitled:

"AN ACT Relating to county treasury management;"

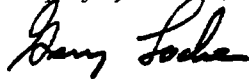
This legislation is a technical bill that cleans up antiquated statutes, amends statutes to reflect existing practices, and simplifies the administration of county treasurers' duties.

I fully support the intent and practice described in sections 12, 13, 22, and 23 of this bill, however, they are duplicative of sections of Substitute House Bill No. 1003, which I have already signed into law.

For these reasons, I have vetoed sections 12, 13, 22, and 23 Substitute Senate Bill No. 5028.

With the exception of sections 12, 13, 22, and 23, Substitute Senate Bill No. 5028 is approved.

Respectfully submitted,



Gary Locke  
Governor

Eliminating obsolete references in the water code.

By Senator Morton.

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** The Revised Code of Washington is intended to contain the laws now in effect in Washington State. Periodically, the code is updated to make it easy to read with the least confusion possible.

Over the years, numerous legislative enactments have altered the state water resources statutes. Some of these bills were intended to be only temporary in nature. Several new sections of these bills contained expiration dates and automatically were removed from the code. However, other sections of these same bills amended existing RCW sections, and the sections could not be made to expire without repealing the underlying section of the code. Thus, some sections of the water code contain outdated references.

**Summary:** The following is a list of temporary enactments and short-term requirements that are deleted from the code:

- References to the Joint Select Committee on Water Policy created in 1988 that has since expired.
- References to the Water Resources Data Management Task Force and reports that were to be developed by the task force.
- Several references to the temporary moratorium on promulgation of new agency rules covering specified water resource areas established at the same time as the Joint Select Committee on Water Policy was created.
- Authorization to construct the East Selah Reregulating Reservoir authorized in 1983 (RCW 43.21A.460). Since 1983, the location of a proposed reregulating reservoir has been moved to another site.
- A requirement established in 1989 for the development of an irrigation water conservation demonstration plan (RCW 90.54.190). The requirement has since been completed.
- A requirement established in 1993 for a report to be done on irrigation district water rate structures (RCW 90.54.200). The report was submitted to the Legislature during the 1994 session.

**Votes on Final Passage:**

Senate	47	0
House	92	0

**Effective:** July 27, 1997



## SSB 5030

## FULL VETO

Establishing procedures by which owners of single-family residences may use lake water for noncommercial landscape irrigation.

By Senate Committee on Agriculture & Environment (originally sponsored by Senator Horn).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** The 1971 Water Resources Act established a process whereby water may be reserved and set aside for future beneficial use. Under this act, reservations of water are required to be adopted by rule by the Department of Ecology. Prior to adoption of the rule, the department is required to provide notice and hold a public hearing within each county that the reservation is made. The priority date of the reservation is the effective date of the adopted rule.

In 1976, the Department of Ecology adopted procedural rules for the initiation and establishment of reservations for future public water supplies.

There have been reservations of water established by rule of surface and ground water supplies for municipal water supply and for irrigation.

**Summary:** A specific process is created by which the Department of Ecology must determine if there is enough water in lakes and reservoirs over 20,000 surface acres located west of the crest of the Cascades (Lake Washington) to allow single-family residents that live along the lakes and reservoirs to use lake water to irrigate their lawns and noncommercial gardens. If the department determines there is enough water for such use, the department must allow the use of lake water, by rule, subject to certain conditions.

*Ecology's Process.* In making its determination, the department is to consider at least the following factors:

- (1) whether there is water available for appropriation;
- (2) whether allowing additional appropriation will have a significant adverse impact on existing water right holders and instream resources;
- (3) the existing and future potential uses of water from the lake or reservoir;
- (4) the effect on upstream resources of allowing or not allowing withdrawal from the lake or reservoir; and
- (5) the physical characteristics of the lake or reservoir.

If the department does determine that there is sufficient water, the department must hold one or more public hearings. After the public hearing or hearings, the department must make a final decision on whether or not there is sufficient water available for lawn and garden watering by single-family residences living along the lakes.

*Use Restrictions.* If the department makes a final determination that there is sufficient water, the agency must adopt rules allowing persons living in single-family resi-

dences along Lake Washington to use lake water for lawn and noncommercial garden watering. These rules must also include conservation requirements and provisions to protect existing uses of the water.

The department is also authorized to suspend temporarily the right to use water for lawns and gardens if there is a drought, or if the lawn and garden watering is causing adverse impacts to fish, existing water rights, navigation, power generation, or to shoreline facilities.

Persons withdrawing water under a rule adopted under this act may, but are not required to, apply for a water right permit. The right to withdraw water under this section has a priority date of the effective date of the rule.

*Timing.* The department is to conduct the determination required by this legislation in a manner that allows it to adopt rules by June 1, 1998. Rules are necessary only if the department decides there is enough water to allow lawn and garden watering.

If water is appropriated subject to the provisions of this legislation, the department is required to evaluate the advantages and disadvantages of using this process to appropriate water from other urban lakes and reservoirs and report its findings to the Legislature by June 30, 2000.

*Other Provisions.* A person withdrawing water under such a rule adopted by the department may, but is not required to, apply for a water right permit.

A person withdrawing water who uses an irrigation system that is also connected to a potable water supply system must comply with all applicable health, safety, and building code requirements.

#### Votes on Final Passage:

Senate	26	23	
House	64	32	(House amended)
Senate	26	23	(Senate concurred)

#### VETO MESSAGE ON SB 5030-S

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

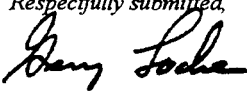
Ladies and Gentlemen:

I am returning herewith, without my approval Substitute Senate Bill No. 5030 entitled:

"AN ACT Relating to the appropriation of water from lakes and reservoirs for single-family residential noncommercial garden and landscape irrigation;"

Substitute Senate Bill No. 5030 would have directed the Department of Ecology to determine if water is available to provide shoreland owners around Lake Washington with a water right for residential noncommercial garden and landscape irrigation. The Department of Ecology determined in 1979 that additional diversions of water from the Lake Washington drainage system would deplete instream flows and lake levels required to support appropriate uses. There does not appear to be reasonable evidence that any additional water would be available today for these purposes, particularly in light of increased pressures associated with potential Endangered Species Act listings for salmon in the Puget Sound basin.

*For these reasons, I have vetoed Substitute Senate Bill No. 5030 in its entirety.*

*Respectfully submitted,*  


Gary Locke  
 Governor

**SB 5034**  
PARTIAL VETO  
 C 394 L 97

Changing the definition of "bona fide charitable or nonprofit organization" for gambling statutes.

By Senator Roach.

Senate Committee on Commerce & Labor  
 House Committee on Commerce & Labor

**Background:** A "bona fide charitable or nonprofit organization" must meet certain requirements in order to operate authorized gambling activities. These include: an organization operating primarily for purposes other than gambling activities, such as an agricultural fair, benevolent, or educational purpose; or a corporation whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also carry on a system of national and international relief. Such an organization must have been organized and continuously operating for at least 12 months prior to making an application for a gambling license. The organization must demonstrate to the Washington State Gambling Commission that it has made significant progress toward the accomplishment of the organization's purpose during the 12-month period preceding the date of application for a license or license renewal, and the organization must have not less than 15 bona fide active members who determine the policies of the organization in order to receive a gambling license.

Bingo may be operated only by charitable and nonprofit organizations or by an agricultural fair. Organizations may offer bingo only three times per week at a location that may only offer bingo three times per week. Different organizations may not use the same location under this restriction.

During 1996, a task force of industry members formed by the Gambling Commission conducted a study of the issues facing charitable fund raising activity in light of declining net proceeds for the sponsoring organizations. One recommendation of the task force was to allow organizations to join together using a satellite connection to offer participation in larger games with larger prizes. This recommendation may enhance the ability of charitable organizations operating bingo games to be competitive. Such activity is not permitted under current law.

When first authorized, the maximum price of each chance to play punch boards and pull tabs was limited to 25 cents. That amount was increased to 50 cents in 1985.

Counties, cities, and towns may tax punch boards and pull tabs, social card games, bingo, amusement games, and raffles within their jurisdictions. With the exception of punch boards, pull tabs, and social card games, the tax is imposed on gross receipts less an amount that is paid out as prizes. Punch board and pull tabs are taxed based on gross receipts only and the tax rate may not exceed 5 percent. Not all jurisdictions that allow this activity impose a tax at the maximum rate.

**Summary:** The requirement of 15 bona fide active board members is changed to seven.

Charitable or nonprofit organizations are allowed to operate joint bingo games in which the prizes are pooled, if such organizations conduct the joint games during their normal days of operation.

The maximum limit on the cost of a single chance for punch boards or pull tabs is increased from 50 cents to \$1.

The practice of taxing the gross receipts from punch boards and pull tabs is changed. Local governments are permitted to impose on charitable or nonprofit organizations a tax rate of up to 10 percent on the gross receipts less the amount paid out as prizes, generated from punch board and pull tabs. Local governments are given the authority to impose on commercial stimulant operators (taverns and restaurants) a tax rate of up to 5 percent on the gross receipts from punch boards and pull tabs or a tax rate of up to 10 percent on the gross receipts less the amount paid out as prizes, generated from punch boards and pull tabs.

**Votes on Final Passage:**

Senate	46	3	
House	88	9	(House amended)
Senate			(Senate refused to concur)

First Conference Committee

House	90	7	
Senate			(Senate refused to adopt)

Second Conference Committee

House	93	5	
Senate	34	14	

**Effective:** July 27, 1997

**Partial Veto Summary:** The provision reducing the number of active members required of charitable and nonprofit organizations desiring to operate gambling activities is stricken. The provision authorizing joint bingo games by charitable or nonprofit organizations is stricken.

**VETO MESSAGE ON SB 5034**

May 16, 1997

To the Honorable President and Members,  
 The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 2, Senate Bill No. 5034 entitled:

"AN ACT Relating to gambling;"

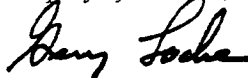
*This legislation combines several provisions relating to authorized gambling activities for bona fide nonprofit or charitable organizations and to authorized gambling activities for commercial stimulant licensees.*

*Section 1 would reduce the minimum number of members that a charitable organization must have in order to conduct authorized gambling activities from 15 to seven. This limitation is on the number of active members in the organization and not on the number of board members. I am concerned that if this change is made, it will encourage small groups of people to form nonprofit organizations for the primary purpose of engaging in charitable gaming activities, in violation of the gambling code.*

*Section 2 would authorize charitable or nonprofit organizations to operate joint bingo games in which the prizes are pooled during their normal days of operation. Despite agreements that have been reached between the association representing charitable gaming licensees and the Washington State Gambling Commission regarding limitations that could be placed on joint bingo operations to ensure better control, I am concerned that this change in the law would make high stakes gambling even more accessible to the public than it already is. Although I sympathize with the difficulty sometimes encountered by charitable organizations in raising funds for very important causes, this concern does not justify an expansion of authorized gambling in this state.*

*For these reasons, I have vetoed sections 1 and 2 of Senate Bill No. 5034. With the exception of sections 1 and 2, Senate Bill No. 5034 is approved.*

*Respectfully submitted,*



Gary Locke  
Governor

**ESSB 5044**  
**PARTIAL VETO**  
C 196 L 97

Revising AIDS-related crimes.

By Senate Committee on Law & Justice (originally sponsored by Senators Benton and Oke).

Senate Committee on Law & Justice  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections

**Background:** Under current law, a person is guilty of second degree assault if, with the intent to inflict bodily harm, the person administers, exposes or transmits to another the human immunodeficiency virus (HIV-related assault). Assault in the second degree is a class B felony.

Assault in the first degree is a class A felony and requires a showing that the defendant intended to inflict great bodily harm.

The criminal code provides various statutes of limitations in which prosecution for crimes must take place. The general statute of limitations for felony crimes is three years. There are several exceptions to this general time period. For example, there are no statutes of limitations for the crimes of murder, homicide by abuse, or arson if a

death occurs. Similarly, there is a 10-year statute of limitations for the crime of arson if no death occurs and for certain sex offenses. The statute of limitations for assault crimes is three years.

Because of the nature of the human immunodeficiency virus, the victim of an HIV-related assault may not know that he or she has been assaulted for many years. This presents a potential bar to prosecution for HIV-related assault.

Current law defines "homicide" as the killing of a human by another, with death occurring within three years and a day. This definition of homicide may prevent the prosecution of persons for murder or manslaughter for administering, exposing, or transmitting the human immunodeficiency virus because persons infected with the human immunodeficiency virus may not become sick with AIDS for many years.

State law provides a privilege with respect to communications between a physician and patient. With limited exceptions, a physician may not be compelled to disclose any information acquired in treating a patient, unless the patient consents to the disclosure.

State law also provides limitations on the disclosure of medical records. A health care provider may not disclose health care information about a patient to any other person without the patient's consent. There are limited exceptions to this general rule. Two of those exceptions are (1) disclosure to law enforcement authorities to the extent authorized by law; and (2) pursuant to compulsory process, as long as the patient is notified at least 14 days prior to the disclosure so that the patient may seek a protective order to prevent disclosure.

The public health chapter of the Revised Code of Washington covering sexually transmitted diseases provides confidentiality requirements relating to records of the testing and treatment of persons for sexually transmitted diseases, including the human immunodeficiency virus. This chapter provides that no person may disclose or be compelled to disclose the identity of any person tested or treated for the human immunodeficiency virus except as authorized by the chapter. The chapter does not specifically authorize the disclosure of human immunodeficiency virus testing or the test results to law enforcement officials.

The public health chapter dealing with sexually transmitted diseases allows public health officers to order testing, treatment, counseling, and other restrictive measures with respect to persons who are believed to be infected with a sexually transmitted disease and engaging in behavior that presents an imminent danger to the public health.

**Summary:** The elements of the crimes of HIV-related assault are changed and the crimes are reclassified as first-degree assault.

A person is guilty of HIV-related assault in the first degree if the person, with intent to inflict great bodily harm,

administers, exposes, or transmits to or causes to be taken by another, the human immunodeficiency virus.

The definition of "homicide" is amended. Homicide is the killing of another person with death occurring at any time.

The crime of assault in the first degree by administering, exposing, or transmitting to another the human immunodeficiency virus may be prosecuted at any time after the commission of the crime.

A public health officer must inform the local law enforcement agency of all information relating to sexually transmitted disease testing, diagnosis, or treatment concerning a person who is engaging in behavior presenting an imminent danger to the public, if the public health officer has exhausted on one occasion all public health procedures available, and the person continues to engage in behavior that presents an imminent danger to the public health. In addition, the public health officer must provide the local law enforcement agency with the identities of all persons who have been exposed to that person under circumstances that provide an opportunity for the transmission of a sexually transmitted disease, if those persons agree to the disclosure.

**Votes on Final Passage:**

Senate	44	4
House	57	40

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the final two sections of the bill. As a result, first degree assault, when committed by the administering, exposing, or transmitting to another the human immunodeficiency virus, must still be prosecuted no more than three years after its commission. Moreover, the Governor's partial veto removed the mandatory disclosure section relating to public health officers.

**VETO MESSAGE ON SB 5044-S**

April 24, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4 and 5, Engrossed Substitute Senate Bill No. 5044 entitled:

"AN ACT Relating to crimes;"

This legislation relates to the criminal prosecution of persons who are infected with the human immunodeficiency virus (HIV) and other sexually transmitted diseases (STD's). ESSB 5044 raises the penalties for the crime of intentional exposure or transmission of HIV to another person by reclassifying it from second degree to first degree assault. I agree that this is an appropriate penalty when considering that the transmission of the HIV could lead to AIDS and eventual death.

Section 3 of the bill removes the "three years and a day" rule that currently prevents a homicide prosecution if death does not occur within that period of time following the criminal act. Under section 3, prosecutors are able to file homicide charges any time after the victim dies. An act which results in a homicide should not escape punishment and I agree with the purpose of section 3.

Section 4 of the bill does not add meaningfully to what prosecutors can accomplish under section 3 and therefore I have vetoed it.

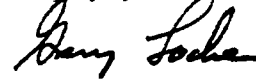
Section 5 of the bill requires that public health officers inform law enforcement of any person with an STD whose behavior presents an imminent danger. As section 5 is written, it may adversely affect HIV/AIDS prevention efforts and could reverse the gains that have been made in slowing the spread of this disease and other STD's.

Current law allows public health officers to give the prosecutor the names of individuals who are intentionally spreading STD's. Section 5 of the bill does not add constructively to what local health officers are already empowered to do.

For these reasons I have vetoed sections 4 and 5 of Engrossed Substitute Senate Bill No. 5044.

With the exception of sections 4 and 5, Engrossed Substitute Senate Bill No. 5044 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 5047**  
**FULL VETO**

Arming community corrections officers.

By Senators Benton and Zarelli.

Senate Committee on Human Services & Corrections  
House Committee on Criminal Justice & Corrections

**Background:** The Division of Community Corrections within the Department of Corrections operates several community-based programs, including community placement and supervision, work/training release, and victim/witness notification. Community corrections officers (CCOs) are the primary staff of this division.

CCOs are responsible for supervising and monitoring offenders in the community who are under the jurisdiction of the department as a part of their sentences. Offenders supervised by CCOs include individuals with a wide variety of criminal backgrounds, from misdemeanors to serious violent felonies, and who pose varying levels of risk to the community and their CCOs.

The type and amount of contact a CCO has with an offender varies and may include visits to an offender's home or work, as well as visits with an offender in the community corrections office.

Current law neither prohibits, nor does it expressly authorize, CCOs to carry firearms while conducting their professional duties.

The department's current policy enables a CCO to make a request to carry a firearm for protection in narrowly-defined situations in which a direct threat has been made against the CCO. Under the policy, CCOs who request to carry a firearm on the job must meet several prerequisites and standards relating to training, equipment specifications, and conduct.

The Criminal Justice Training Commission provides training for law enforcement personnel and correctional officers, including basic training and firearms training. CCOs who are armed under current Department of Corrections policy may obtain training from commission-certified department firearms officers at no cost.

**Summary:** Community corrections officers are authorized, under certain circumstances, to carry firearms during the course of their official field duties. Community corrections officers who choose to be armed on the job must provide or pay for their own firearms, materials, and equipment. They must also pay for, arrange, and complete training requirements that are developed pursuant to this act.

The Department of Corrections is directed to implement the firearms policy by January 1, 1998, but not until the Criminal Justice Training Commission has set standards for training requirements and determined the types of firearms and ammunition that will be permitted.

The commission is directed to convene an advisory board by May 1, 1997, to make recommendations for the training standards and equipment requirements. The membership of the advisory board is specified and includes five members: two firearms instructors designated by the commission; two community corrections officers designated by their exclusive bargaining unit; and one department representative designated by the Secretary of the Department of Corrections.

The standards and requirements for implementing the act must be set by the commission no later than December 1, 1997.

The act clarifies that the authorization to carry firearms contained in this act does not make community corrections officers eligible for membership in the Law Enforcement Officers' and Fire Fighters' retirement system.

#### Votes on Final Passage:

Senate	40	8
House	75	22

#### VETO MESSAGE ON SB 5047

April 24, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5047 entitled:

"AN ACT Relating to arming community corrections officers;"

Senate Bill 5047 would have allowed community corrections officers to carry firearms during the course of their official field duties. The bill provides that the Department of Corrections is not responsible for providing or paying for any training related to firearms use, but does require that the Criminal Justice Training Commission set training and other standards.

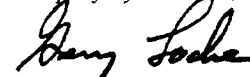
I understand the personal safety concerns of the individual community corrections officers. I believe that the Department of Corrections and the officers should arrive at some agreement specifying the circumstances whereby individuals could carry

firearms under rules established by the department. Such an agreement should also provide for the necessary training and equipment for the community corrections officers.

SB 5047, however, would create major liability issues for the state without these protections.

For these reasons, I have vetoed Senate Bill No. 5047 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

#### SSB 5049

C 33 L 97

Providing vehicle owners' names and addresses to commercial parking companies.

By Senate Committee on Transportation (originally sponsored by Senators Wood, Prentice, Horn, Brown, Prince and Haugen).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Commercial parking companies have access to Department of Licensing (DOL) records to identify the owners of automobiles who use their parking lots without providing sufficient payment. Currently, these records are provided to the parking companies on printed forms.

The public disclosure law prohibits agencies from providing access to lists of individuals for commercial purposes, unless specifically authorized or directed by law. Although the law does authorize the disclosure of the names and addresses of vehicle owners for commercial purposes, it prescribes the manner of production. Under those procedures, DOL currently prohibits the disclosure of this information electronically (for example, magnetic tape) to commercial parking companies except when said companies are acting on behalf of a municipality or other governmental entity.

During the 1996 session, the Legislature unanimously passed legislation identical to SB 5049. However, Governor Lowry vetoed that legislation in the hopes that a more comprehensive policy governing the commercial use of public records might be developed. To facilitate this goal, the Governor established a joint Executive-Legislative Work Group on Commercial Access to Government Electronic Records. The work group issued its final report in November, which includes recommendations for administrative and legislative action. The primary focus of the recommendations is to advance the legitimate use of government-held information for the benefit of the state and the public while protecting personally identifying information and other data from inappropriate or unwarranted dissemination or intrusion. In January of

## SSB 5056

1997, the Governor issued Executive Order 97-01, which instructs state agencies to adhere to a model contract for the release of information for commercial purposes.

**Summary:** Subject to the disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the Department of Licensing is permitted to furnish lists of registered owners electronically to commercial parking companies. If a registered owner list is used by a commercial parking company for any purpose other than notification of outstanding parking violations, DOL must deny further access to such information.

**Votes on Final Passage:**

Senate	26	22
House	97	0

**Effective:** July 27, 1997

## SSB 5056

C 134 L 97

Limiting property assessments to permitted land use.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin and Roach).

Senate Committee on Government Operations  
House Committee on Finance

**Background:** All property in the state subject to taxation must be listed and assessed each year. Such property is valued at 100 percent of its true and fair value unless otherwise provided by law. The appraisal must be consistent with the comprehensive land use plan, development regulations under the Growth Management Act, zoning, and any other governmental practices in place at the time of the appraisal which impact the use of the property.

**Summary:** Property subject to taxation may not be assessed at a level which assumes a higher use of the land than that permitted under zoning or land use planning laws which exist at the time of the appraisal.

**Votes on Final Passage:**

Senate	46	0
House	98	0

**Effective:** July 27, 1997

## SSB 5060

C 66 L 97

Clarifying driving statutes.

By Senate Committee on Law & Justice (originally sponsored by Senators Haugen and Roach).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** In 1996 the Legislature passed SB 6204, which created two degrees of negligent driving, one a crime and the other a traffic infraction. The two degrees are distinguished as two subsections of the same RCW section. This has occasionally resulted in confusion and unnecessary expense when a police officer has cited someone for negligent driving by the RCW section, but without distinguishing the subsection. In some cases the correct subsection is provided, but court personnel misidentify the charge due to the similarity of the numbers. In some cases people who have been charged with a traffic infraction have had public defenders appointed at local government expense.

SB 6204 also amended the driving without a valid license law to create two types of violations. Under some circumstances driving without a valid license is a traffic infraction, but under other circumstances it is a crime. Both of these possible charges, the crime and the traffic infraction, are under the same subsection of the same RCW section. The fact that both the criminal charge and the traffic infraction are listed in the same subsection has created even more confusion than in the negligent driving statute in which the crime and the traffic infraction are at least provided with different subsection numbers. The same problems have arisen with regard to charges of driving without a valid license as were mentioned above in regard to negligent driving.

Providing separate RCW sections for these crimes and infractions is strictly a technical change to current law which will end the confusion for courts and police. It will also save time and money.

**Summary:** Negligent driving in the first degree is made a separate RCW section.

The misdemeanor of driving without a valid license is made a separate RCW section.

The traffic infraction of driving without a valid license is made a separate RCW section.

References to these sections elsewhere in the RCW are corrected.

**Votes on Final Passage:**

Senate	48	0
House	97	0

**Effective:** July 27, 1997

## E2SSB 5074

C 450 L 97

Increasing interstate trade through tax incentives for warehouse and grain operations.

By Senate Committee on Ways & Means (originally sponsored by Senators Sellar and Snyder).

Senate Committee on Commerce & Labor  
Senate Committee on Ways & Means

**Background:** In 1996 the Legislature passed SHB 2708 which directed the Department of Revenue to undertake a comprehensive warehouse and distribution study. The study compared the major state and local taxes on warehouse firms in Washington with a group of selected states: Oregon, Idaho, California, Nevada, Louisiana, Texas, and Utah. The legislation established an advisory committee to the Department of Revenue, made up of legislators, representatives of local governments, port districts, and members of the private sector.

The Department of Revenue and the advisory committee published a report in December of 1996 making the following findings and recommendations:

- Large warehousing and distribution operations are becoming more consolidated with fewer firms operating increasingly larger and more regionalized facilities, thus creating greater competition between ports and third-party warehouses in Washington compared with neighboring states;
- Due to competitive cost factors, large regional facilities, along with retail and wholesale firms, have an increasing incentive to locate their distribution facilities in states that offer the greatest tax advantage;
- Smaller and localized operations need to be closer to customers and are less influenced by interstate tax differentials; and
- That the state should provide new tax incentives for investment in large warehousing operations in order to increase trade and create new family wage jobs, while minimizing the impact on existing tax revenues.

**Summary:** The following warehouse operations are determined to be eligible to receive state tax incentives: wholesalers, third-party warehouse operators, grain elevator operators and retailers who own or operate a distribution center.

Eligible warehouse operations may receive tax incentives on material handling and racking equipment; labor and services rendered in installing, repairing, cleaning, altering, or improving the equipment; and construction including materials, service and labor costs.

The tax incentives listed are provided in the form of remittances where the eligible warehouse or grain elevator operations are required to initially pay all applicable taxes and then apply for reimbursement to the Department of Revenue for the state portion of the sales tax.

Warehouses over 200,000 square feet are exempt on 50 percent of machinery and equipment purchases and 100 percent of construction costs.

Grain elevators with capacities between one million and two million bushels receive a 50 percent sales and use tax exemption on machinery, equipment and construction.

Grain elevators larger than two million bushels receive a 50 percent sales and use tax exemption on machinery and equipment and 100 percent on construction.

The legislative fiscal committees are directed to report to the Legislature by December 1, 2001, on the performance of this program. The report is required to analyze the

effect of the program in creating or retaining family wage jobs, the program's impact on diversifying the state's economy, and outline recommendations for possible improvement. In addition, the report may include a comparative analysis of Washington with other states. The fiscal committees must consult with other state agencies, along with business and labor.

**Votes on Final Passage:**

Senate	45	0
House	84	14

**Effective:** May 20, 1997

**SSB 5077**

C 357 L 97

Requiring integrated pest management.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen, Newhouse and Loveland).

Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means  
House Committee on Agriculture & Ecology

**Background:** In 1991 the State of Oregon enacted legislation that required state agencies and institutions of higher education that have pest control responsibilities to implement an integrated pest management program.

The Council on Agriculture and the Environment developed a recommended definition of integrated pest management last summer. Members of the council provided a report to legislative committees during the interim.

**Summary:** Integrated pest management is defined. A policy is established for state agencies and institutions of higher education who have pest control responsibilities to implement integrated pest management responsibilities. Each enumerated state agency and college must provide training in integrated pest management to employees who have pest management responsibilities. Each of the enumerated agencies and colleges must designate an integrated pest management coordinator. Each designated coordinator serves on the Interagency Integrated Pest Management Coordinating Committee. The coordinating committee must meet at least two times per year.

The Department of Agriculture is to serve as chair to the coordinating committee and must provide a report to the Legislature once every biennium on the progress of the integrated pest management program.

**Votes on Final Passage:**

Senate	37	12	
House	98	0	(House amended)
Senate	35	12	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5079**  
**FULL VETO**

Providing an alternative means to comply with wastewater discharge permit requirements.

By Senate Committee on Agriculture & Environment (originally sponsored by Senator Swecker).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** Any person who owns or operates a facility discharging wastewater to waters of the state must apply for a wastewater discharge permit from the Department of Ecology. Permits are drafted by Department of Ecology staff, with conditions that place limits on the quantity and concentration of contaminants that may be discharged. Public notice and an opportunity to comment is provided for each draft permit, and a hearing may be required if there is sufficient public interest. After the close of the comment period, the Department of Ecology will respond to comments and issue a final permit.

It has been suggested that allowing an applicant to develop the draft permit would encourage pollution prevention and decrease Department of Ecology program costs.

**Summary:** Findings are made regarding the benefits of allowing the private preparation of draft wastewater discharge permits.

The Department of Ecology must determine whether each application for a new or modified wastewater permit will be processed in 180 days. If the permit will not be processed within 180 days, the department must notify the applicant, and the applicant may choose to withdraw the application and resubmit the application in the form of a draft permit and fact sheet.

The Department of Ecology is required to approve or deny the proposed permit within 45 days if no hearing is required, or within 90 days if a hearing is required. The department retains full authority to approve, modify, or deny any draft permit.

The Department of Ecology is directed to make available guidelines specifying the elements of a complete draft permit.

**Votes on Final Passage:**

Senate	47	0	
House	62	36	(House amended)
Senate	38	4	(Senate concurred)

**VETO MESSAGE ON SB 5079-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval Substitute Senate Bill No. 5079, entitled:

"AN ACT Relating to permit processing;"

*Substitute Senate Bill No. 5079 deals with the private preparation of draft wastewater discharge permits. I commend the intent of this bill to find ways to increase private sector participation in order to make the permit process more timely. However, while the Department of Ecology would still review and approve or deny permits, the time allowed for this review is not sufficient to ensure the thorough review necessary to protect the environment or to allow adequate time for input from the public.*

*For these reasons I have vetoed Substitute Senate Bill No. 5079 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**ESSB 5082**  
**FULL VETO**

Revising procedures for mental health and chemical dependency treatment for minors.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Oke and Winsley).

Senate Committee on Human Services & Corrections  
House Committee on Children & Family Services

**Background:** In 1995 the Legislature passed a comprehensive act dealing with runaway, truant, and at-risk youth. The act is commonly referred to as the Becca Bill (Chapter 312, Laws of 1995). Part of the act dealt with parents' rights to seek chemical dependency and mental health treatment for their minor children. The Legislature intended to broaden parents' rights to seek professional help for their children without the necessity of a court proceeding.

The Washington State Supreme Court ruled, in *State v. CPC Fairfax Hospital*, 129 Wn.2d 439 (1996), that the mental health treatment process set up by the Becca Bill allowed a child to be released from treatment upon his or her request, unless the parents filed a petition under the state's involuntary commitment procedures. The child who was the subject of the *CPC Fairfax* case was not released upon her request, nor did her parents file a petition with the court. The court therefore ruled that the child's due process rights were violated. The court did not rule on the constitutionality of the ability of parents to seek treatment for their children.

It has been suggested that the Legislature clarify the statute to: (1) allow parents to seek treatment for their children without the need of a judicial process; (2) prohibit treatment facilities from releasing children, upon the child's request, when they were admitted to the facility at the request of their parents; and (3) ensure that only medical professionals, and not parents, are authorized to file



petitions for court-ordered treatment under the current statutes.

It has also been suggested, consistent with the Supreme Court's ruling, that the Legislature create: (1) a standard for the admission of a child to treatment, upon the request of a parent, that is lower than the standard for a petition for involuntary treatment; and (2) a standard of review for the independent professionals to use when reviewing the appropriateness of the child's treatment.

**Summary:** The processes for the admission of a child to mental health or chemical dependency treatment are clarified by clearly separating the procedures for: (1) voluntary outpatient and inpatient treatment, (2) parent-initiated treatment, and (3) court-authorized involuntary treatment petitions.

Mental health and chemical dependency treatment of children is allowed, without the child's consent, when the decision is made by a medical professional at the request of a parent.

New definitions of "medical necessity" and "medically appropriate" treatment of minors are provided. Admitting professionals may only admit a child to treatment when the professional determines the treatment is medically necessary. The professional must be appropriately trained, as provided by rule, to conduct the evaluation. The evaluation must be completed within 24 hours unless the professional determines additional time is necessary. The child cannot be held longer than 72 hours without being admitted or discharged. During the evaluation period, the professional may only provide such treatment as necessary to stabilize the child's condition.

The independent review of the professional's decision to treat the child is made on the basis of whether the continued treatment is medically appropriate. The review must be conducted by a professional person and occurs between five and ten days, excluding weekends and holidays, after admission to treatment. Subsequent reviews are provided every 30 days. After the third 30-day review, the Department of Social and Health Services must file a petition under the Involuntary Treatment Act. The department may contract out the independent reviews. The child must be released upon written request of the parent.

If the department determines that the treatment is no longer medically appropriate, and the parents and the treating professional disagree, the facility may hold the child for up to two judicial days in order to allow the parents to file an At-Risk Youth Petition with the court.

The Department of Health must conduct a survey of providers of mental health services to minors. The survey collects information relating to parental notification of their minor children's mental health treatment.

Parents are notified of their child's chemical dependency treatment only if the child consents to the notice or the treatment provider determines the child lacks the capacity to provide consent to the notice. The chemical dependency notice provision is based upon federal law.

#### Votes on Final Passage:

Senate	35	14	
House	89	7	(House amended)
Senate			(Senate refused to concur)

#### Conference Committee

House	82	15
Senate	37	6

#### VETO MESSAGE ON SB 5082-S

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5082 entitled:

"AN ACT Relating to mental health and chemical dependency treatment for minors;"

Engrossed Substitute Senate Bill No. 5082 addresses a very important matter, the role of parents in directing mental health and chemical dependency treatment of their teenage minor children. I have vetoed this measure because it leaves unresolved a number of important issues.

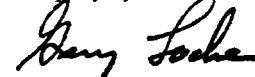
A focus of the bill is parent initiated inpatient mental health and chemical dependency treatment. At the outset of parent initiated inpatient treatment of a minor 13 years of age or older, this bill would substitute a series of professional psychiatric evaluations directed by the Department of Social and Health Services (DSHS) for the early judicial commitment hearing required in law as currently interpreted. This bill would permit approximately 100 days to pass prior to the minor having access to the courts, an unduly long period of time.

This bill is primarily a response to the case, State v. CPC Fairfax Hospital, 129 Wn.2d 439 (1996). In that ruling, four justices underscored the importance of due process in involuntary commitments. This bill, in delaying judicial review for a lengthy period, may not satisfy due process.

The issue of reimbursement for treatment must be handled more completely than is provided by this bill. At some early point in the process of admission of Medicaid eligible minors, the issue of reimbursements for treatment will inevitably arise. The bill would require all determinations (subsequent to the initial one) of whether treatment should continue to be based on a standard of "medically appropriate". It is unclear whether the state would be reimbursed for inpatient treatments that do not meet a standard describing a mental disorder, or even a standard of medical necessity. In the case of private insurers, perhaps some will choose to reimburse at a lower standard than "medically necessary". Others may not. This uncertainty around the financing and reimbursement of potentially costly treatment indicates the need for more careful attention to this matter.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5082 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

SB 5085

C 17 L 97

Removing a defense to the crime of criminal conspiracy.

By Senators Roach, Swecker, McCaslin and Winsley.

Senate Committee on Law & Justice

House Committee on Law & Justice

Background: A person is guilty of criminal conspiracy if he or she agrees with another person or persons to commit a crime, and any one of them takes a substantial step in pursuance of the agreement.

A recent Washington Supreme Court decision held that the crime of criminal conspiracy requires a bilateral agreement among the co-conspirators, meaning that both the conspirator and at least one other co-conspirator must intend for the crime to be committed. The court held that there was no "agreement," for the purpose of conspiracy, if the only co-conspirator was an undercover police agent who did not intend for a crime to be committed.

Summary: It is not a defense to a criminal conspiracy charge that the person with whom the accused is alleged to have conspired is a police officer or other government agent who does not intend that a crime be committed.

Votes on Final Passage:

Senate 44 3
House 95 0

Effective: July 27, 1997

SB 5093

FULL VETO

Prescribing procedures for capital punishment sentencing.

By Senator Roach.

Senate Committee on Law & Justice

House Committee on Law & Justice

Background: When a defendant has been convicted of aggravated first-degree murder and sentenced to death, the Supreme Court is required to review the sentence. This review is in addition to any other appeal that may be available to the defendant. The court is to determine, among other things, whether the sentence is "excessive" or "disproportionate" when compared to similar cases.

The state Supreme Court has held that the death penalty is not disproportionate in a given case if death sentences have generally been imposed in similar cases and its imposition is not wanton or freakish. State v. Rupe, 108 Wn.2d 735 (1987). The court has also remarked:

No question of statutory interpretation has received more careful consideration than what this [excessiveness and proportionality comparison] means and how to best give it effect. We have acknowledged the statute often requires "the comparison of incomparables,"

and the task is, at times, a "struggle." State v. Pirkle, 127 Wn.2d 628 (1995).

The U.S. Supreme Court has held that proportionality reviews in death penalty cases are not constitutionally required. Pulley v. Harris, 79 L. Ed. 2d 29 (1984).

Summary: The requirement that the state Supreme Court review a sentence of death for excessiveness or disproportionality is removed.

Votes on Final Passage:

Senate 33 15
House 73 21

VETO MESSAGE ON SB 5093

April 24, 1997

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5093 entitled:

"AN ACT Relating to capital punishment sentencing;"

This legislation would have repealed the requirement that the state supreme court, in its mandatory sentence review in capital punishment cases, conduct a "proportionality review". The proportionality review is a determination whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

The purpose of the proportionality review is to ensure that death sentences are imposed evenhandedly across the state, and not "arbitrarily or freakishly", or based on race. I am a strong supporter of the death penalty. However, I am also a strong supporter of fairness. The proportionality review has not yet resulted in the reversal of any death sentences. Nonetheless, I believe that it is an important safeguard.

For these reasons, I have vetoed Senate Bill No. 5093 in its entirety.

Respectfully submitted,

Gary Locke

Gary Locke
Governor

SSB 5100

C 18 L 97

Allowing qualified trusts to hold shares in professional service corporations.

By Senate Committee on Law & Justice (originally sponsored by Senators Oke and Strannigan).

Senate Committee on Law & Justice

House Committee on Law & Justice

Background: Federal income and estate tax laws allow a person to put assets in a charitable remainder trust (CRT). A charitable remainder trust provides income each year to the creator of the trust and any monies remaining in the trust at the death of the trust's creator are given to the designated charity. The primary benefit of such a trust is that

it allows a person to put an asset (usually an asset that has significantly appreciated in value) into the trust and, upon sale of the asset by the trust, the creator receives an income amount each year, while at the same time avoiding the payment of any capital gains tax.

At the present time all shareholders in a professional service corporation must be licensed members in the same profession (i.e. doctors, lawyers, accountants). This requirement precludes shareholders of a professional service corporation from taking advantage of the federal charitable remainder trust laws.

**Summary:** Shareholders of professional service corporations are allowed to transfer their shares to a qualified charitable trust.

**Votes on Final Passage:**

Senate	45	3
House	97	0

**Effective:** July 27, 1997

## SSB 5102

C 197 L 97

Revising the provision imposing an annual recreational surcharge on certain personal use food fish licenses.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke and Winsley).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources

**Background:** Persons who fish for salmon and marine bottomfish in Puget Sound and salmon in Lake Washington are assessed a \$10 recreational surcharge if they purchase an annual personal use food fish license.

Persons who purchase a three-consecutive-day personal use license to fish in the above areas are not charged a recreational surcharge. As a result, they do not contribute to the Puget Sound recreational enhancement program into which these surcharges are deposited.

**Summary:** Persons who purchase a three-consecutive-day license to fish for salmon or marine bottomfish in marine area codes 5 through 13 (Puget Sound) or Lake Washington are assessed an annual recreational surcharge of \$5.

**Votes on Final Passage:**

Senate	47	0
House	86	8

**Effective:** July 27, 1997

## SSB 5103

C 421 L 97

Increasing the number of alternate operators allowed under certain commercial fishery licenses.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke and Winsley).

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** Current law allows commercial fishers and charter boat license holders up to two alternate operators who may operate the vessel.

Allowing more alternate operators will give commercial fishers and charter boat owners more opportunities to designate persons to operate their boats.

**Summary:** The Fish and Wildlife Commission may, by rule, increase the number of alternate operators beyond current levels.

**Votes on Final Passage:**

Senate	47	0	
House	92	6	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

## SSB 5104

C 422 L 97

Creating the Washington pheasant enhancement program.

By Senate Committee on Ways & Means (originally sponsored by Senators Oke, Loveland, Hale, Morton, Swecker, Rossi, Snyder, West, Bauer, Haugen and Rasmussen).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources

**Background:** Pheasant populations, pheasant hunters, and pheasant hunting opportunities have greatly decreased over the last 20 years in eastern Washington.

A program that improves pheasant habitat and plants pheasants for harvest by hunters would increase pheasant hunting opportunities and would provide recreation for an increased number of hunters.

**Summary:** Beginning with the 1997 hunting season, pheasant hunters in eastern Washington must pay a \$10 surcharge, in addition to other licensing requirements, in order to hunt pheasants. Funds from the program are utilized to release pen-reared pheasants for hunting, to improve habitat for pheasants, and to provide opportunities for juvenile pheasant hunters. Production of pheasants in either department operated projects or from private contractors must be based on the least expensive alternative.

## ESSB 5105

The eastern Washington pheasant enhancement account is created. Revenue from the surcharge is deposited in the account. The account is subject to appropriation. Not less than 80 percent of the expenditures shall be used to produce or buy pheasants.

The Department of Fish and Wildlife and the Department of Corrections must jointly investigate the feasibility of producing pheasants with inmate labor at Walla Walla penitentiary or other eastern Washington correctional facilities in comparison to purchasing pheasants from private industry.

### Votes on Final Passage:

Senate	43	0	
House	61	34	(House amended)
Senate	37	9	(Senate concurred)

Effective: July 27, 1997

## ESSB 5105

### FULL VETO

Tightening requirements for administrative rule making.

By Senate Committee on Government Operations (originally sponsored by Senators Deccio, McCaslin, Hale, Goings, Johnson, Haugen, West, Winsley, Oke, Schow and Roach).

Senate Committee on Government Operations  
House Committee on Government Reform & Land Use  
House Committee on Appropriations

**Background:** Before adopting a significant legislative rule, the significant legislative rule-making analysis requires that certain agencies determine that the rule does not require violation of other state or federal law; that if the rule does differ from state or federal law, to justify the difference either by an explicit state statute or by determining that difference is necessary; and to coordinate the rule as much as possible with federal, state and local law applicable to the same activity or subject matter.

After adopting significant legislative rules that regulate the same activity or subject matter as other federal or state law, the agency must list the other federal and state laws and coordinate the enforcement of the rule with the other entities.

If the agency cannot achieve coordination, it must report the situation to the Joint Administrative Rules Review Committee (JARRC) and recommend legislation to correct the problem.

The rules adopted by the Department of Labor and Industries (L&I) under Chapter 49.17 RCW concern worker health and safety. The statutory mandate is to equal or exceed federal Occupational Safety and Health Act protections with rules at least as effective.

**Summary:** The authority of a significant legislative rule-making agency to determine that it is necessary for a rule to differ from federal law is removed. For significant leg-

islative rules now on the books that regulate the same activity or subject matter as other federal or state law, all significant legislative rule-making agencies, except L&I for rules adopted under Chapter 49.17 RCW, have until July 1, 1998 to coordinate implementation of the rule. If coordination of implementation cannot be achieved by July 1, 1998, the agency, except L&I under Chapter 49.17 RCW, must so report to JARRC with suggestions for corrective legislation. The significant legislative rules of L&I adopted under Chapter 49.17 RCW for which coordination of implementation cannot be achieved must be reported to the Legislature by July 1, 2000. On July 1, 1999, any rule that does not have specific statutory authority to overlap or duplicate other federal or state laws or to differ from federal law expires, with the exception of rules adopted by L&I under Chapter 49.17 RCW, which do not expire under any circumstances.

Proposed significant legislative rules that regulate the same activity or subject matter as another federal or state law are subject to the requirements already in statute, including coordination with other federal, state and local laws to the maximum extent practicable; determination that the rule does not require violation of another federal or state law; and, if the rule differs from federal regulation or statute, to justify the difference by citation to an explicit state statute. The rules of L&I adopted under Chapter 49.17 RCW are exempt from the latter-most requirement, namely, justification of any difference from federal law by citation to an explicit state statute.

Only those proposed rules which do meet all the applicable pre-adoption requirements may be adopted.

There is a null and void clause.

### Votes on Final Passage:

Senate	29	19	
House	57	39	(House amended)
Senate	27	18	(Senate concurred)

### VETO MESSAGE ON SB 5105-S

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5105 entitled:

"AN ACT Relating to administrative rule making;"

This bill would amend the Administrative Procedure Act (APA) as it relates to significant legislative rules that are the same as, or differ from, federal requirements. It would require that such rules expire automatically, unless specific statutory authority is obtained by July 1, 1999 allowing them to overlap or duplicate federal or state laws, or differ from federal law on the same subject matter.

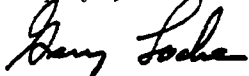
If the Legislature should fail to act, for whatever reason, this bill could result in abdication of state policy to federal rule makers in crucial areas of public health, safety, environmental protection, and general public welfare. Often, federal requirements are stated as minimum standards or are designed to allow states to customize programs, through rules, to meet unique geographic or other needs. Also, any mechanism that could invali-

date a rule by legislative inaction raises constitutional separation of powers questions.

My Executive Order No. 97-02 directs agencies to review their rules, and to amend or repeal those rules if they do not coordinate with rules of other governmental jurisdictions. I believe this effort can best be addressed by executive leadership.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5105 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SSB 5107

C 19 L 97

Modifying consent provisions under the Washington business corporation act.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach and Johnson).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Current law does not allow for the non-unanimous written consent by a corporation's shareholders to any action where their consent is required.

**Summary:** Corporate action may be authorized or taken by the non-unanimous written consent of the shareholders of a nonpublic company, where provision is made for such consent in the articles of incorporation.

Provisions relating to target corporations engaging in significant business transactions are clarified.

### Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 27, 1997

## SB 5108

C 20 L 97

Transferring certain interests in individual retirement accounts.

By Senators Roach and Johnson.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** In Washington, pension and retirement benefits earned during marriage are community property. It is unclear whether the community property interest of a nonaccount holder spouse in a spouse's pension or retirement plan is transferable at death either by will or by the law of intestate succession.

Any pension, retirement, or employee benefit plans covered by the federal Employee Retirement Income Security Act (ERISA) may not be assigned or transferred unless done pursuant to a qualified domestic relations order. ERISA, however, does not cover some types of Individual Retirement Accounts (IRAs). Therefore, state community property law could provide, without being preempted by ERISA, that a deceased nonaccount holder spouse has a community property interest in the surviving spouse's IRA which may be accessed by the estate of the nonaccount holder spouse.

**Summary:** The nonaccount holder spouse may transfer, at death, the community property interest in the account holder spouse's IRA to the nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor pursuant to the last will or the law of intestate succession.

Consent by the nonaccount holder spouse to a beneficiary designation by the account holder spouse with respect to an IRA is not deemed a release, gift, relinquishment, termination, limitation, or transfer of the nonaccount holder spouse's community property interest in the IRA, absent clear and convincing evidence to the contrary.

### Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 27, 1997

## SB 5109

C 21 L 97

Dissolving limited liability companies.

By Senators Roach and Johnson.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** The Limited Liability Company Act currently provides that a limited liability company is dissolved if the number of its members falls below two and additional members are not admitted within 90 days.

**Summary:** Formation and operation of one-member limited liability companies is authorized.

### Votes on Final Passage:

Senate	36	13
House	90	5

Effective: July 27, 1997

**SSB 5110**

C 252 L 97

Updating probate provisions.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Roach).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** The Washington State Bar Association's Probate Law Task Force has been engaged in a multi-part, six-year effort to update and modernize the state probate code. This bill represents the completion of that effort, by addressing four substantive areas of the code, clarifying others, and making several technical updates and/or corrections.

Under the current probate code, the filing and publication of a notice to creditors after an individual's death is mandatory. Notice need not be given to reasonably ascertainable creditors whose claims become known. Claims against an estate are barred if not filed within 18 months after filing and publication of the notice to creditors.

Filing an inventory of the assets of an estate with the court is mandatory. An appraisal must also be prepared, but need not be filed with the court.

An award in lieu of homestead, and provision for the support of minor children if there is no surviving spouse, may be made by the court, subject to restrictions set out in the code.

The probate code currently contains provisions controlling the circumstances under which a deceased person's estate may be administered without the intervention of a court.

**Summary:** The provisions relating to creditors' claims against estates are restated in their entirety. The filing and publication of a notice to creditors are voluntary. Notice may be given to reasonably ascertainable creditors whose claims become known. The current 18-month time bar for filing claims where notice to creditors has been published is extended to 24 months. A creditor receiving actual notice must file its claim within 30 days after service or mailing of the notice or four months from publication, whichever is later. Notice to creditors must include claims arising both before and after an individual's death.

Filing an inventory of the assets of an estate is voluntary. Creditors, heirs and beneficiaries having an interest in the estate are entitled to obtain an inventory from the personal representative.

The provisions for family support are restated in their entirety. Existing statutory provisions regarding awards in lieu of homestead and family allowance are consolidated in a new chapter. A court may award support to a surviving spouse or minor children from either the probate or nonprobate assets of an estate, regardless of whether or not a probate proceeding has been commenced in this state. Courts have discretion to increase the amount of

support awarded to a surviving spouse or minor children. A petition for support must be filed within 18 months of death if a personal representative has been appointed, and in any case before the close of probate.

An award for the support of a surviving spouse or children of a decedent is subject to a lien for medical assistance received by the decedent from the Department of Social and Health Services (DSHS). Notice to DSHS is required if the personal representative chooses not to publish a general notice to creditors.

Provisions relating to nonintervention powers are substantially rewritten. The duty of a personal representative to notify beneficiaries after an estate has become insolvent is clarified, co-personal representatives are allowed to delegate powers and duties among themselves, and certain powers to hold a reserve of the estate's assets and deal with tax authorities in closing the estate are granted.

Provisions applicable to deceased persons' estates apply only to the estates of persons dying after December 31, 1997.

Various other technical and clarifying revisions to the probate and trust law are enacted.

**Votes on Final Passage:**

Senate	46	1	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

**SB 5111**

C 135 L 97

Requiring the preparation of maps by county assessors for listing of real estate.

By Senators Winsley and Loveland.

Senate Committee on Government Operations  
House Committee on Finance

**Background:** The county assessor lists all real property subject to taxation. The list is placed in the plat and description book in numerical order. The list contains the names of owners; the number of acres and lots, or parts of lots, included in each property description; and the value per acre and lot. Concern has been expressed that assessors do not have explicit authority to maintain maps of the real property in the county.

**Summary:** The county assessor prepares and keeps a complete set of maps. The maps indicate parcel configuration for county lands. The maps are continually updated to reflect transactions or events which change the boundaries of any parcel. If necessary, parcels are numbered or new map pages prepared to update combinations or divisions of parcels.

**Votes on Final Passage:**

Senate	48	0
House	98	0

Effective: July 27, 1997

**SSB 5112**

C 67 L 97

Providing property tax refund interest from the date of collection.

By Senate Committee on Ways & Means (originally sponsored by Senators Oke and Winsley).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** Taxpayers are entitled to interest on refunds of property taxes. Interest accrues from the date of payment of the tax in all cases in which the taxpayer institutes an action for a refund in state or federal court and in small claims petitions to the county assessor. Interest on administrative refunds made by petition to the county treasurer accrues from the date of payment or the date of claim, whichever is later. If the county treasurer rejects the claim, or takes no action within six months, and the taxpayer institutes a court action for the refund, interest accrues from the date of payment. In addition, the county treasurer may refund without interest, within 60 days of payment, taxes paid more than once or paid in excess of the amount due.

**Summary:** Interest on administrative refunds made by petition to the county treasurer accrues from the date of payment.

The act applies to claims made after January 1, 1998.

**Votes on Final Passage:**

Senate	43	3
House	97	1
House	98	0 (House reconsidered)

Effective: July 27, 1997

**SB 5113**

C 22 L 97

Refunding certain license fees.

By Senator Oke.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Current law allows vehicle and vessel owners to obtain a refund of their license fees in four circumstances. A refund can be obtained if: (1) the vehicle or vessel is destroyed before the registration period begins; (2) the vehicle or vessel is permanently removed from the state before the registration period begins; (3) the

license tabs were purchased after the owner sells the vehicle or vessel; or (4) the vehicle or vessel is currently licensed in Washington but later licensed in another state, in which case the owner is allowed a pro rata refund for the unexpired months.

**Summary:** Vehicle and vessel owners can obtain a refund on license tabs if the owner sells the vehicle or vessel before the beginning date of the registration period, so long as the owner returns the tabs new, unused, and never affixed.

**Votes on Final Passage:**

Senate	43	0
House	97	0

Effective: July 27, 1997

**SSB 5118**

C 68 L 97

Changing school truancy petition provisions.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Hargrove, Winsley, Long and Sheldon).

Senate Committee on Education  
House Committee on Education

**Background:** As part of the 1995 "Becca Bill" (C 312 L 95), the Legislature enacted provisions that require schools to file a petition in juvenile court when a student accumulates at least five unexcused absences in a month, or ten unexcused absences in a year. If the allegations in the truancy petition are established by a preponderance of the evidence, the court must assume jurisdiction to intervene for the remainder of the school year. The court may order the student to attend school, or be referred to a community truancy board. If the student fails to comply with the court's order, the court can impose a variety of sanctions, including detention, fines, or community service.

**Summary:** The length of the court's jurisdiction over a truant student is changed from the end of the school year to a period of time necessary to cause the student to return and remain in school. The list of actions that a court may order for a student subject to a truancy petition is expanded to include requiring that the student submit to drug or alcohol testing.

**Votes on Final Passage:**

Senate	46	0
House	98	0

Effective: July 27, 1997

SSB 5119

C 423 L 97

Compensating members of the forest practices appeals board.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Swecker, Snyder and Roach).

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** Part-time Forest Practices Appeals Board members are classified as a class 3 group and are eligible to receive compensation not exceeding \$50 for each day during which they attend meetings of the group or perform statutorily prescribed duties approved by the chairperson. No compensation is allowed if the member is otherwise a full-time employee of any other governmental unit and receives compensation for that day. Compensation is only authorized if specifically authorized under the law dealing with the particular subgroup.

Current law gives the chairperson of the group power to determine what statutorily prescribed duties are compensable.

Presently, the board conducts an average of 48 full-day hearings per year. Class 4 classification would require a finding by the Legislature that the board's functions have overriding sensitivity and importance to the public welfare and operation of state government.

**Summary:** The Legislature finds that the functions of the Forest Practices Appeals Board have overriding sensitivity and are of importance to the public welfare and operation of state government.

Part-time Forest Practices Appeals Board members are classified as a class 4 group compensated at an amount not to exceed \$100 per day.

The director of the Environmental Hearings Office must determine what statutorily prescribed duties, in addition to attendance at a hearing or meeting of the board, merit compensation.

**Votes on Final Passage:**

Senate	47	0	
House	97	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 1997

**2SSB 5120**

**FULL VETO**

Providing for fish enhancement with remote site incubators.

By Senate Committee on Ways & Means (originally sponsored by Senator Morton).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources

**Background:** Remote site incubators are a technology for increasing populations of salmon and trout. Greater application of remote site incubators will assist in fish restoration efforts.

**Summary:** The Fish and Wildlife Commission must instruct the Director of the Department of Fish and Wildlife to identify sites for remote site incubators. Existing construction crew employees may be used to construct incubators. The department must depend chiefly upon volunteer efforts to implement the remote site incubator program. The department is directed to make surplus fish eggs available for the program and may contract with a variety of entities to purchase fish eggs for the program. The department must work with fish farmers, other agencies, Indian tribes and volunteer groups to facilitate the program. Remote site incubator technology must be tested with warm water fish. The correctional industries program must be evaluated as a supplier of remote site incubators.

The director must approve remote site incubator projects unless they are a direct threat to the salmonid resource.

**Votes on Final Passage:**

Senate	48	1	
House	97	0	(House amended)
Senate	33	9	(Senate concurred)

**VETO MESSAGE ON SB 5120-S2**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Second Substitute Senate Bill No. 5120 entitled:

"AN ACT Relating to fish enhancement with remote site incubators;"

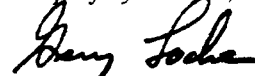
Second Substitute Senate Bill No. 5120 establishes a program to promote Remote Site Incubators (RSI's) for salmonid recovery. Although RSI's can play a role in salmonid recovery, I have specific concerns that this program is premature because our state's wild salmonid program is not yet in place.

I urge the Department of Fish and Wildlife (DFW) to look at RSI's in view of the Wild Salmonid Policy and potential Endangered Species Act listings. I encourage DFW to work with the tribes and the legislature to develop guidelines which will allow the use of RSI's while protecting the state's vital wild salmon stocks.

For these reasons, I have vetoed Second Substitute Senate Bill No. 5120 in its entirety.

I am hereby returning, without my approval, Second Substitute Senate Bill No. 5120.

Respectfully submitted,



Gary Locke  
Governor



## SSB 5121

C 136 L 97

Waiving or canceling interest or penalties for certain estate tax returns.

By Senate Committee on Ways & Means (originally sponsored by Senators Johnson, Newhouse and Winsley).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The state imposes a tax on the transfer of property at death. The tax is equal to the amount of tax authorized as a credit against the federal estate tax. As a result, the tax would be paid to the federal government if the state did not impose it. Because the tax is tied to the federal credit, it only applies to estates valued at more than \$600,000 (or \$1,200,000 for a community property couple). The state tax return is due when the federal tax return is due, which is usually nine months after the date of death.

The executor is required to file the federal estate tax return and is subject to a penalty under state law for failure to file. The penalty is equal to 5 percent of the tax due for each month that the return is late, not to exceed 25 percent of the tax due. This penalty is in addition to interest charged on the amount of tax due at 2 percent above the average federal short term rate.

With respect to excise taxes, the Department of Revenue is required to waive penalties when the delinquency is due to circumstances beyond the control of the taxpayer. The department has adopted rules that provide for waivers if:

- A return was inadvertently mailed to the wrong agency.
- Delay was caused by death or illness in the taxpayer's or accountant's immediate family.
- Delay was caused by the unavoidable absence of the taxpayer.
- Delay was caused by destruction of the taxpayer's records.
- The taxpayer received erroneous written information from the department that caused the delinquency.
- The department was late in getting forms to the taxpayer.

Current law also requires waiver of penalties if the taxpayer requests the waiver for a tax return that is filed on a regular basis and the taxpayer has timely filed all tax returns with the tax due for the previous 24 months.

**Summary:** The Department of Revenue is required to waive penalties when the delinquency is the result of circumstances beyond the control of the person responsible for filing the estate tax return.

## Votes on Final Passage:

Senate	46	0
House	98	0

Effective: July 27, 1997

## SSB 5125

C 34 L 97

Authorizing revisions in medical assistance managed care contracting under federal demonstration waivers.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn and Winsley; by request of Department of Social and Health Services).

Senate Committee on Health & Long-Term Care  
House Committee on Health Care

**Background:** The Medical Assistance Administration within the Department of Social and Health Services (DSHS) currently contracts with 19 managed care health insurance carriers (including health care service contractors and health maintenance organizations) to provide services to about 437,000 children, pregnant women and Aid to Families with Dependent Children (AFDC) recipients. The program is widely known as *Healthy Options*.

Each *Healthy Options* enrollee must choose one of these 19 carriers, unless the enrollee obtains an exemption for good cause. However, under current federal requirements, an enrollee may change carriers each month. Also, under current federal requirements, a managed care carrier that becomes a *Healthy Options* carrier may have no more than 75 percent of their total enrollment covered by Medicare or Medicaid.

Under state law, DSHS does not have explicit authority to administer its programs according to waivers it may obtain from federal requirements; a Medicaid enrollee may not be "locked into" a plan for longer than six months; a managed care contract may only be negotiated after DSHS determines the upper and lower limits of the expected cost of providing health services; and DSHS must obtain "a large number of contracts with providers of health services ..." within the Medicaid program.

In addition, current law allows DSHS to contract with health maintenance organizations to serve Medicaid patients, but prohibits DSHS from engaging in mandatory enrollment of Medicaid recipients in health maintenance organizations.

The 1996 Supplemental Operating Budget for the state of Washington (ESSB 6251) required DSHS to take several actions in order to "... achieve an actual reduction in the per capita rates paid to managed care plans in calendar year 1997 ... including ... (a) selectively contracting with only those managed care plans in a given geographic area that offer the lowest price, while meeting specified standards of service quality and network adequacy; (b)

revising program procedures through a federal waiver if necessary, so that recipients are required to enroll in only one managed care plan during a contract period, except for documented good cause; and (c) disproportionately assigning recipients who do not designate a plan preference to plans offering more competitive rates.”

DSHS has stated that current law should be updated to give DSHS “... necessary authority to implement restrictions on clients’ ability to change plans without good cause; contract with certain plans that have a disproportionate number of Medicaid or Medicare enrollees; and clarify ... [DSHS’s] contracting authority.”

**Summary:** The Department of Social and Health Services’ authority to contract with managed care organizations providing health services to Aid to Families with Dependent Children recipients is altered in several ways.

The definition of managed care is modified to include programs that meet waivers granted to DSHS by the federal government.

The maximum time within which DSHS may require managed care enrollees to remain in one plan is doubled from six months to one year, so long as this time period is consistent with federal law or waivers granted to DSHS from federal requirements.

DSHS is allowed such disproportionate enrollment of AFDC recipients in a single managed care plan as may be allowed under waivers DSHS may receive from federal requirements on this issue.

The requirement that DSHS determine a range of the expected cost of providing health services before negotiating managed care contracts is eliminated.

The requirement that DSHS contract with a large number of health providers for services to AFDC recipients is eliminated.

The prohibition against DSHS mandating enrollment in health maintenance organizations is repealed.

The Legislature finds that competition in the managed care market place is enhanced, in the long run, by the existence of a large number of managed care systems from which Medicaid enrollees can choose. When improved health status is the goal, it is important to retain continuity of enrollee relationships with these systems and to minimize disruption. To these ends, a series of principles are established to guide DSHS in its *Healthy Options* managed care purchasing efforts. They involve assuring the opportunity for all managed care systems to compete based on commitment and experience in serving low-income populations, quality, accessibility, capability to perform services, payment rates, and other factors.

Significant weight should be given to quality, accessibility and commitment to serving low-income populations.

All regulated health carriers must meet state minimum net worth requirements as established in law. DSHS may establish net worth requirements for contractors who are not regulated carriers.

The department must establish negotiation and dispute resolution mechanisms for the *Healthy Options* contracting process, after giving strong consideration to those employed by the Health Care Authority.

The department may apply the principles established for *Healthy Options* contracting to its efforts to contract for services on behalf of clients receiving supplemental security income.

**Votes on Final Passage:**

Senate	47	0
House	92	0

**Effective:** April 16, 1997

**2SSB 5127**

**PARTIAL VETO**

C 331 L 97

Providing additional funding for trauma care services.

By Senate Committee on Ways & Means (originally sponsored by Senators Wojahn, Deccio, Thibaudeau, Wood, Oke, Loveland, Sellar, Snyder, Fairley, Spanel, Sheldon, McCaslin, West, Bauer, Winsley, Goings and Schow).

Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means  
House Committee on Finance

**Background:** In 1990, the Legislature passed the Trauma Care Act which set in place a new system for the referral and treatment of traumatically injured patients in the state. The system, which is now operating statewide, was designed to assure that no matter where an injury occurs, nor how serious it is, the patient will get the best possible care in the shortest amount of time. In this state, trauma is the leading cause of death from birth to age 44 and the third leading cause of death for all categories. Nearly 40 percent of all traumatic injuries involve motor vehicle accidents.

The trauma system depends on the cooperation and performance of three key providers in the field: hospitals, physicians, and emergency personnel. One of the key elements of the system is the voluntary participation of hospitals around the state to be “designated” trauma care services. This means they are recognized as the only facilities equipped to treat trauma victims and thus the only places where emergency medical personnel may legally bring the severely wounded. There are currently 77 designated trauma care services around the state.

One of the problems identified at the time of enactment of the 1990 legislation was the financial burden assumed by designated trauma services in providing this extremely expensive care for patients who have no insurance. Currently, about 16 percent of trauma patients statewide are uninsured, and 18 percent bill Medicaid. There has been growing concern that designated trauma care facilities will

not be able to manage the financial burden of uncompensated care.

The 1990 legislation paid for a study to analyze the potential financial shortfall for all players in the trauma care system. The study concluded that for the 1993-95 biennium, reimbursement for uncompensated and under-compensated care for hospitals, emergency services and physicians would be about \$38 million for the biennium.

The 1996 Legislature appropriated \$4.6 million from the state's general fund to reimburse designated trauma care services for the cost of severe trauma to medically indigent patients.

**Summary:** A funding source for the state's trauma care system is established. Revenue for uncompensated trauma care is generated through a \$6.50 fee collected from consumers at the time of title transactions on motor vehicles. Car dealers keep \$2.50 of the fee; the remainder is forwarded to the emergency medical services and trauma care system trust account. A \$5 surcharge is assessed on all traffic infractions. This fee cannot be waived or reduced. Money collected from this fee is transmitted to the emergency medical services and trauma care system trust account.

A committee of House and Senate members reviews the funding mechanisms in the act. The Department of Health and the Department of Social and Health Services report to the Legislature in December 1998 on the adequacy of this funding for uncompensated care.

All fees collected under the terms of this act, which are forwarded to the emergency medical services and trauma care system trust account, are disbursed based on a regional/state match of 25/75 percent.

**Votes on Final Passage:**

Senate	37	11	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

**Conference Committee**

House	70	28
Senate	45	3

**Effective:** July 27, 1997

January 1, 1998 (Sections 1-8)

**Partial Veto Summary:** Language authorizing a joint legislative committee to study the adequacy of trauma care funding was deleted from the bill.

**VETO MESSAGE ON SB 5127-S2**

May 13, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 9, Second Substitute Senate Bill No. 5127 entitled:

"AN ACT Relating to funding trauma care services;"

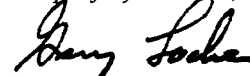
Second Substitute Senate Bill No. 5127 establishes a grant program for designated trauma services under the Department of Health. Section 9 of the bill would direct legislative commit-

tees to review executive agency rules and to conduct work sessions and hearings outside of the regular legislative sessions to verify that funds are being used properly and efficiently. This is an inappropriate use of legislative committees. Reviews such as this, if necessary, should be done by the Joint Legislative Audit and Review Committee.

For these reasons, I have vetoed section 9 of Second Substitute Senate Bill No. 5127.

With the exception of section 9, I am approving Second Substitute Senate Bill No. 5127.

Respectfully submitted,



Gary Locke  
Governor

**SB 5132**

C 23 L 97

Simplifying designation of school bus stops as drug-free zones.

By Senators Zarelli, Schow, Winsley and Oke.

Senate Committee on Law & Justice  
House Committee on Education

**Background:** Under current law, a number of locations are declared to be drug free zones, within which the penalties for drug related offenses are doubled. The areas covered are schools, school bus route stops designated as such on maps submitted by school districts to the Office of the Superintendent of Public Instruction, school buses, public parks, transit vehicles, transit vehicle shelters and civic centers designated as drug free zones by local governing authorities.

**Summary:** The definition of school bus route stop is modified to mean a school bus stop as designated by a school district, without the necessity of submitting maps to the Superintendent of Public Instruction.

**Votes on Final Passage:**

Senate	47	0
House	97	0

**Effective:** July 27, 1997

**SB 5139**

C 137 L 97

Regarding enterprise activities of the state parks and recreation commission.

By Senators Oke, Snyder, Swecker and Winsley; by request of Parks and Recreation Commission.

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources

## SB 5140

**Background:** The 1994 Legislature directed the Parks and Recreation Commission to study ways to restructure its finances to stabilize its budget. As a result of the study, the commission adopted a series of recommendations that were presented to the 1995 Legislature and adopted. This included creation of a parks renewal and stewardship account which ensures park patrons that the fees they pay are dedicated to supporting park facilities and services.

The purpose of the proposed legislation is to ensure that all revenue generated by the Parks and Recreation Commission is deposited into the parks renewal and stewardship account.

**Summary:** The purpose of the parks improvement account is clarified. The director is authorized to transfer funds generated by the sale of literature and materials from the parks improvement account to the parks renewal and stewardship account and to expend those funds for any purposes permitted by the stewardship account statute.

Money from donations or bequests is deposited in the stewardship account. Funds from the sale of sand are placed in this account. Moneys collected from ski lift inspections are also deposited into the parks renewal and stewardship account.

The commission's authority to publish and sell interpretative recreational and historical materials and literature in and outside of park facilities is clarified.

### Votes on Final Passage:

Senate	48	0
House	98	0

**Effective:** July 1, 1997

## SB 5140

C 69 L 97

Revising provisions relating to community placement of offenders.

By Senators Long, Zarelli, Schow, Kohl, Franklin, Hargrove and Winsley; by request of Department of Corrections.

Senate Committee on Human Services & Corrections  
House Committee on Criminal Justice & Corrections

**Background:** The 1996 Legislature changed the legal status of certain sex offenders under supervision in the community by the Department of Corrections (DOC).

Sex offenders given the Special Sex Offender Sentencing Alternative (SSOSA) do not accrue earned early release credits while serving their suspended sentences on community supervision. Under the terms of last year's legislation, SSOSA offenders are now required to serve their suspended sentences under "community custody" status, rather than "community supervision" status.

All other sex offenders sentenced to supervision after release from prison are required to serve their complete terms of supervision under "community custody" status

rather than as a combination of "community custody" and "post-release supervision" status.

The change in status was intended to accomplish two primary goals: (1) affording DOC additional authority to impose supervision conditions beyond those ordered by the court at the time of sentencing; and (2) allowing violations of conditions to be handled administratively rather than by the court.

The department is requesting this legislation to clarify that the change in status does not allow SSOSA offenders to accrue earned early release credits.

The department is further requesting an expansion of its authority to impose supervision conditions on nonsex offenders.

**Summary:** Offenders participating in the Special Sex Offender Sentencing Alternative are prohibited from accruing any earned early release time while serving their suspended SSOSA sentences.

The Department of Corrections is authorized to impose additional conditions on all offenders, including nonsex offenders, sentenced to community custody for crimes committed on or after June 6, 1996. The department may impose appropriate conditions of supervision beyond those ordered by the court at the time of sentencing.

An additional condition of supervision is added for all offenders on community placement, prohibiting them from unlawfully possessing controlled substances.

### Votes on Final Passage:

Senate	48	0
House	98	0

**Effective:** July 27, 1997

## SSB 5142

C 24 L 97

Allowing county clerks to collect civil judgments where the county is the creditor.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Loveland and Winsley).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Currently, county clerks have the ability to collect (either in-house or through an agency) the court-ordered legal financial obligations ordered pursuant to a misdemeanor or felony conviction. There is no authority for them to do so when the county is the creditor pursuant to a civil judgment.

**Summary:** County clerks may use the same means to collect civil judgments where the county is the creditor as are available against criminal defendants.

**Votes on Final Passage:**

Senate	48	0
House	94	0

**Effective:** July 27, 1997

**SSB 5144**

C 358 L 97

Modifying numerous local government administrative requirements.

By Senate Committee on Law & Justice (originally sponsored by Senator Roach).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Several current provisions relating to the administration of the county clerks' offices are confusing or unclear, contain archaic language, or incomplete citations to controlling statutory provisions.

**Summary:** Various technical clarifications or corrections are made to sections relating to the administration of the county clerks' offices. No execution on a foreign judgment is allowed until after the judgment creditor has filed proof of mailing with the clerk. Jurisdiction to modify a judgment of the district court appealed to the superior court is clearly placed in the superior court. Archaic language is eliminated and common usage adopted.

**Votes on Final Passage:**

Senate	47	0	
House	95	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5149**

C 320 L 97

Revising restrictions on legislators' newsletters.

By Senate Committee on Law & Justice (originally sponsored by Senators Long, Spanel, Horn and Kohl; by request of Legislative Ethics Board).

Senate Committee on Law & Justice  
House Committee on Government Administration

**Background:** In 1994, the Legislative Ethics Board was created and given responsibility for enforcing ethics laws and rules as they apply to members and employees of the Legislature. Among other duties, the board is required to issue advisory opinions and investigate complaints. In fulfilling those duties, the board sometimes notes that the law is difficult to interpret and asks or recommends that the statutory language be addressed by the Legislature.

Initiative 134, approved by the voters in 1992 and amended in 1995, established a freeze on mailings to con-

stituents from state legislators for the year prior to the last day for certification of their next election. The law provides certain exceptions to this general rule. The Legislative Ethics Board has proposed language to clarify some sources of difficulty in interpreting this statute.

The first concern is that the last day for certification is ambiguous and might be inadvertently violated. A second concern is that newsletters to constituents are supposed to be identical. A third problem is that the exceptions to the freeze rule include sending a letter in response to a constituent who has contacted the legislator about the subject of the response, but do not include authority for a legislator to send a congratulatory letter to a constituent who has received an important award or honor. The fourth concern is that it is not sufficiently clear that the freeze only applies to a legislator who is a candidate. The fifth issue involves determining when a legislator has exceeded the expenditure limit on mailings. The sixth concern is providing a clear understanding of who is a constituent.

**Summary:** The 12-month freeze on mailings begins on December 1 of the year before a general election for the state legislator's election to office and runs through November 30 after the election.

A legislator appointed during a regular legislative session to fill a vacant seat has 30 days from the date of appointment to send out the first mailing.

Newsletters need not be identical as to the name and address of the constituent.

Legislators may send unsolicited letters acknowledging the achievement of an award or honor of extraordinary distinction.

The term "legislator" for the purpose of the freeze provisions is defined as a legislator who is a candidate for any public office.

A violation of the expenditure limits for mailings only occurs if the legislator exceeds the total limit per member, and not for exceeding a particular category within that limit.

The term "constituent" for purposes of the mailings statute excludes persons residing outside the legislative district represented by the legislator, except for students, military personnel, and others temporarily employed outside the district who normally reside in the district.

**Votes on Final Passage:**

Senate	46	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	33	0	(Senate concurred)

**Effective:** July 27, 1997

SB 5151

C 246 L 97

Adjusting the jurisdictional amount for district courts.

By Senators Roach, Johnson, Heavey, McCaslin, Loveland, Snyder and Winsley.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** All civil causes of action for monetary damages under \$35,000 must be submitted to arbitration prior to hearing by the court. The maximum arbitration limit in superior court is \$35,000, and the current jurisdiction level in district court is \$25,000, including actions upon bonds. Proponents of this bill believe that if the jurisdiction limit of district court was the same as the arbitration limit in superior court, a litigant would have the alternative of pursuing his or her claim in either superior or district court.

It usually takes from one to two years to obtain a civil trial in superior court due to the heavy volume of cases. A trial can be obtained within six months in district court. There is support for raising the jurisdiction level of district court to provide litigants an option of pursuing their action in district court, provide a more expeditious resolution to their cases, and reduce the volume of cases handled by superior court.

**Summary:** The civil jurisdiction of district courts is \$35,000, including actions upon bonds.

**Votes on Final Passage:**

Senate	47	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

SB 5154

C 198 L 97

Extending the vehicle gross weight schedule.

By Senators Horn, Heavey and Prince.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Washington's vehicle gross weight schedule is based upon a federal formula that sets forth truck weight limits based upon the number of axles and axle configuration/spacing. The gross weight schedule is capped at 105,500 pounds. The maximum length between the first and last axle is currently set at 70 feet. Based on this schedule, the maximum weight that can be carried by vehicles with six or seven axles is 96,000 and 101,000 pounds, respectively.

These vehicles could haul up to the legal maximum limit of 105,500 pounds if the weight table were extended

from 70 feet to 86 feet, thereby creating more distance between the first and last axle. The extension does not change the 105,500 pound limit or the axle weight limits. Extending the table does make Washington's gross weight schedule for six- and seven-axle trucks the same as Idaho and Oregon.

The Federal Highway Administration has informed the Washington State Department of Transportation that there is a rounding error in the state's weight table. The correct weight limit for five-axle trucks with 70 feet between the first and last axle should be 91,500 pounds rather than 92,000 pounds.

**Summary:** Washington's vehicle gross weight schedule is extended from 70 feet to 86 feet between the first and last axle so that six- and seven-axle trucks can reach the legal maximum weight limit of 105,500 pounds. The weight limit for five-axle trucks with 70 feet between the first and last axle is changed from 92,000 pounds to 91,500 pounds to correct a rounding error in Washington's weight table, thereby bringing the table into compliance with the federal bridge formula.

**Votes on Final Passage:**

Senate	47	0
House	97	0

**Effective:** July 27, 1997

SB 5155

C 63 L 97

Adjusting vehicle width limits.

By Senators Horn, Heavey and Prince.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** One type of self-tarping mechanism currently being manufactured is a retractable, three-sided tarp (made of tarpaulin, a waterproof canvas) that fits over a flatbed trailer and encloses the cargo. About 20-30 trailers currently are using this system in Washington State. The advantage of the tarpaulins is the lightweight design and the ability to load and unload from three sides versus being restricted to the back door of the trailer.

These tarping devices require an additional three inches on each side of the vehicle (over the legal width limit of 8 1/2 feet). Federal law allows up to three inches for safety devices and other appurtenances. Because state law only allows an overhang of two inches for safety appliances (clearance lights, rub rails, flexible fender extensions) and appurtenances (door handles, door hinges, turning sign brackets), a trucker using a self-tarping mechanism must obtain a special overwidth permit from the Department of Transportation (DOT). Special overwidth permit fees are \$10/trip, \$20 for 30 days, and \$100/year.

**Summary:** State law is modified to conform with federal law by extending the amount of overhang for truck safety appliances and appurtenances to three inches on each side of the vehicle. This change eliminates the need for truckers to obtain DOT special overwidth permits when their vehicles are equipped with self-tarping devices.

**Votes on Final Passage:**

Senate	48	0
House	98	0

Effective: July 27, 1997

**SSB 5157**  
**FULL VETO**

Providing tax exemptions for items obtained to replace weather-damaged items.

By Senate Committee on Ways & Means (originally sponsored by Senators Zarelli, Stevens and Kohl).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. These range from 0.5 percent to 1.7 percent. The total rate is between 7.0 percent and 8.2 percent, depending on the location.

Use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out of state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used.

**Summary:** A sales and use tax exemption is created for purchases of tangible personal property in residential or commercial buildings including labor and private automobiles.

These new sales and use tax exemptions apply only if the building or private automobile was damaged or destroyed by a disaster occurring between November 1, 1995, and June 30, 1997. The damaged or destroyed building also must be located in a county or Indian nation declared as a federal disaster area.

Persons approved to receive one or more of the following forms of disaster assistance may claim the exemptions: (1) Federal Emergency Management Agency (FEMA) housing assistance grant; (2) Small Business Administration (SBA) loan; or (3) Farm Service Agency loan.

Persons denied individual or family assistance grants may claim the exemption if they can show damage from a disaster and meet certain conditions. These persons must

apply to the Department of Revenue for a disaster assistance certificate.

These new sales and use tax exemptions expire on July 1, 1998.

**Votes on Final Passage:**

Senate	48	0	
House	87	8	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	98	0
Senate	41	0

**VETO MESSAGE ON SB 5157-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5157 entitled:

"AN ACT Relating to sales and use tax exemptions for victims of inclement weather that led to a declaration of a disaster area;"

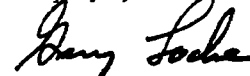
Substitute Senate Bill No. 5157 would have established a sales and use tax exemption for labor, services and materials used in repairing buildings, and replacement of private automobiles damaged by natural disasters occurring between November 1, 1995 and June 30, 1997.

I agree that it is important to assist victims of natural disasters, but I do not believe this bill is the way to do it. Many people would be unable to take advantage of the exemption since they have already repaired or replaced damaged buildings and automobiles. In order to be effective and fair, this bill would have needed to be in place prior to the natural disasters.

This bill represents a well-intentioned effort to help the victims of weather-related natural disasters. However, the defects of the bill more than offset its good intentions. The program it establishes would be readily subject to fraudulent abuse, and would require extensive and burdensome record keeping by private businesses.

For these reasons, I have vetoed Substitute Senate Bill No. 5157 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**ESB 5163**  
**FULL VETO**

Filing financing statements.

By Senators Haugen and Schow.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Law & Justice

**Background:** When personal property is sold under a conditional sales contract with payment to occur over time, the Uniform Commercial Code provides a method

of recording the transaction as a public record to protect the rights of the seller and give notice to potential subsequent buyers of the property.

To perfect a security interest, the holder of the interest must file a prescribed financing statement with the county auditor or the Department of Licensing, depending on the type of property involved.

Financing statements filed to perfect a security interest do not last indefinitely, but expire after a period of five years from the date of filing unless a continuation statement is filed prior to the lapse. If a valid financing statement is not in effect, a subsequent purchaser of the property may obtain all rights to the property by simply paying the purchase price to the apparent owner, even though that party may still owe money to the original seller.

Sellers of property who are unfamiliar with the five-year life span of the financing statement, might fail to file a necessary continuation statement and lose their security interest.

**Summary:** The Department of Licensing is required to give notice to parties filing financing statements that it is only good for five years. The notice is provided four and one half years after filing.

The state is protected from lawsuits based on failure to provide the notice required in the act.

**Votes on Final Passage:**

Senate	48	0
House	95	0

**VETO MESSAGE ON SB 5163**

April 17, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 5163 entitled:

"AN ACT Relating to the expiration of filed financing statements;"

This legislation provides that the Department of Licensing shall notify all creditors who file a UCC financing statement, four and one-half years after filing, that the lien expires after five years unless a continuation statement is filed. Failure to provide this notice does not create a cause of action against the state.

No change to the Uniform Commercial Code should be made lightly and without first studying its affect on the transaction of business and considering the recommendations of the National Conference of Commissioners on Uniform State Laws. This bill would make Washington's law non-uniform, creating uncertainty for those doing business in Washington and between Washington and other states. Although it protects the state from liability if a notice is not received by a creditor, it would create difficulties in enforcing security interests in cases where a UCC financing statement has lapsed and no warning notice was received. Uncertainty in such a fundamental aspect of commercial law is simply not acceptable to me.

It might be more practical to require that a Washington UCC financing statement contain a clear and simple warning statement that it will expire, that expiration could leave the creditor without security, and the date of expiration.

State government should not insert itself into the everyday operation of business unless there is a compelling public safety or other interest to be served. This bill does not meet that test. Most of the beneficiaries of this service would be banks and other sophisticated, well-financed organizations with their own internal system of flagging due dates such as this.

Finally, since no funds are currently included in the bill or budgets passed by the legislature for this new service, the Department of Licensing would have to absorb this new task into its current appropriation, or, more likely, institute a fee increase. A fee increase to provide for a service that most beneficiaries feel is redundant and unnecessary is not justified.

For these reasons, I have vetoed Engrossed Senate Bill No. 5163 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**SSB 5173**

**PARTIAL VETO**

C 321 L 97

Improving the liquor license schematic of the state of Washington.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Prentice and Horn; by request of Liquor Control Board).

Senate Committee on Commerce & Labor  
Senate Committee on Ways & Means  
House Committee on Commerce & Labor  
House Committee on Finance

**Background:** Under current law, the Liquor Control Board issues licenses to those who manufacture, distribute, or sell to the public, beer, wine or liquor in this state. Those licensees desiring the privilege to conduct a mixture of activities, such as selling beer and wine at retail, are currently required to obtain multiple liquor licenses.

The current "alphabet-based" licensing structure has often been cumbersome to operate and confusing to the public, licensees or potential licensees.

The fees charged for liquor licenses are statutorily set.

**Summary:** The current licensing structure is modified to eliminate the current "alphabet-based" license scheme. It is replaced with a licensing structure that names the specific type of privilege or privileges granted to a licensee. For example, a restaurant where beer, wine and spirits are sold at retail is issued a full service restaurant license.

In addition, a number of types of licenses that are traditionally obtained together by licensees are combined into one type of license. As a result, many licensees are no longer required to obtain several different licenses to conduct business but are required to obtain only one license. For example, a restaurant where beer and wine are sold for on-premise consumption is required to obtain only a



beer and wine restaurant license, instead of two separate licenses, a beer retailer's license and a wine retailer's license.

Fees for the new liquor licenses are statutorily established. The fees for several licenses are increased, in part to reflect the combining of two or more licenses and/or to reflect increased costs of issuing/regulating such licenses or licensees.

**Votes on Final Passage:**

Senate	47	2	
House	98	0	(House amended)
Senate	42	0	(Senate concurred)

**Effective:** July 1, 1998

**Partial Veto Summary:** Redundant provisions of the bill and a double amendment of existing statute are deleted.

**VETO MESSAGE ON SB 5173-S**

May 12, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 39, 48, 58, 59, and 60, Substitute Senate Bill No. 5173 entitled:

"AN ACT Relating to improving the liquor license schematic of the state of Washington;"

This bill consolidates and simplifies the structure of the liquor licensing system in Washington as provided in the state liquor code.

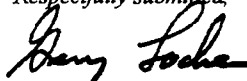
Sections 39, 58, 59, and 60 of this bill duplicate other sections of the bill. Section 48 would create a double amendment of RCW 66.28.040 as a result of the earlier enactment this year of Senate Bill No. 5338 (Chapter 39, Laws of 1997).

Several technical corrections to this legislation appear to be necessary. However, I am signing this bill because it is a major positive step forward in clarifying the law, and should be put into place this year. Also, I will ask the Liquor Control Board to develop a bill to make necessary technical corrections for introduction in the 1998 legislative session.

For these reasons, I have vetoed sections 39, 48, 58, 59, and 60 of Substitute Senate Bill No. 5173.

With the exception of sections 39, 48, 58, 59, and 60, Substitute Senate Bill No. 5173 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5175**

**PARTIAL VETO**

C 384 L 97

Revising the business and occupation tax on the handling of hay, alfalfa, and seed.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen, Hochstatter, Goings and Roach; by request of Department of Revenue).

Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means

**Background:** The primary business and occupation (B&O) tax rate on manufacturing and wholesale sales is 0.484 percent. For manufacturing, the rate is applied to the value of the products manufactured. For wholesale sales, the rate is applied to the gross proceeds of the sale. When a grower bales hay, the Department of Revenue considers this action to be part of the harvesting process. The department also considers the cubing of hay as part of the harvesting process when it is performed on the grower's land. A grower who sells hay at wholesale which was grown and cubed on his or her own land is exempt from the B&O tax.

If the cubing of hay is performed away from the grower's land, it is considered by the department to be a manufacturing activity and the business and occupation tax applies. The sale of hay that is cubed away from the grower's property is not exempt from the B&O tax because the hay is considered to be part of the manufacturing process. The harvesting process is considered to have ended once the hay leaves the grower's property.

There are a number of exceptions to the primary tax rate contained in statute under the law authorizing the business and occupation taxes. The B&O tax rate for wholesale sales of wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye and barley is established at the rate of 0.011 percent. This lower rate does not apply to wholesale sales of seed conditioned for use for planting or for sale at wholesale.

**Summary:** Cubing hay or alfalfa is not considered a manufacturing activity. The tax imposed on every person in the state engaged in the business of selling cubed hay or alfalfa seed conditioned for use in planting is equal to the gross proceeds derived from such sales multiplied by 0.011 percent.

**Votes on Final Passage:**

Senate	47	0	
House	85	12	(House amended)
Senate			(Senate refused to concur)
House	76	22	(House receded)

**Effective:** July 1, 1997

**Partial Veto Summary:** The legislation is narrowed so that the lower B&O tax rate of 0.011 percent will apply only to cubed hay and alfalfa sold out of state and to conditioned seeds for agriculture.

VETO MESSAGE ON SB 5175-S

May 15, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Substitute Senate Bill No. 5175 entitled:

"AN ACT Relating to business and occupation tax on the handling of hay, alfalfa, and seed;"

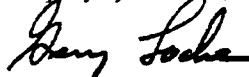
Substitute Senate Bill No. 5175 provides that cubing of hay or alfalfa is a processing activity not a manufacturing activity for tax purposes, wherever it is performed. The bill also lowers the business and occupations (B&O) tax rate to 0.11% for hay and alfalfa cubing and seed conditioning.

I have vetoed section 2 which pertains to the B&O tax rate reductions for the sales of a broad variety of conditioned seeds, not for commercial use and for the in-state sales of cubed hay and alfalfa. I support the lower tax rate on conditioned seeds for agricultural use but not the expanded uses found in section 2. I also support the tax reduction for cubed hay and alfalfa sold outside our state. By vetoing section 2, I have returned the bill to the original intent of the Department of Revenue request legislation.

For these reasons, I have vetoed section 2 of Substitute Senate Bill No. 5175.

With the exception of section 2, Substitute Senate Bill No. 5175 is approved.

Respectfully submitted,



Gary Locke  
Governor

SSB 5177

C 253 L 97

Facilitating smoother flow of traffic.

By Senate Committee on Transportation (originally sponsored by Senators Horn, Wood, Prince, Winsley, Deccio and Johnson).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** On any highway with two or more lanes in one direction, all vehicles are to remain in the right lane then available for traffic except when overtaking another vehicle, traveling at a speed greater than the traffic flow, moving left to allow for merging traffic, or preparing to turn left.

In the state of California certain vehicles are restricted from using the left lane(s) on a multi-lane facility. On a highway with two lanes in the same direction, trucks must stay in the right lane except to pass. On a three-lane facility a truck must remain in the right lane and use the center lane to pass. On a highway with four or more lanes in the same direction, a truck must stay in the first two right lanes and can pass only in the third lane. The restrictions apply not only to trucks, but also to any vehicle pulling a

trailer, school buses, a farm vehicle transporting passengers, a vehicle transporting explosives, etc.

**Summary:** Any vehicle towing a trailer or any vehicle over 10,000 pounds is prohibited from driving in the left lane on a limited access highway with three or more lanes in the same direction. The exceptions are a vehicle preparing to turn left or an authorized vehicle traveling in a high occupancy vehicle (HOV) lane. An HOV lane is not considered to be the left lane. The Department of Transportation, in consultation with the Washington State Patrol, must adopt rules providing exemptions (a) under emergency circumstances or to facilitate the orderly flow of traffic, and (b) for certain segments of three-lane limited access roadway, due to the operational characteristics of the highway.

Examples of exemptions under emergency circumstances or to facilitate a smoother flow of traffic include (1) when the other two lanes are blocked with slow traffic; (2) when one or more lanes are blocked with military convoys; (3) when an overwidth load is occupying two lanes; (4) when a recent accident has occurred and the traffic has not yet been redirected by law enforcement; (5) when temporary signs direct the use of the left lane; and (6) when an emergency vehicle or tow truck is responding to an emergency.

An example of an exemption due to the operational characteristics of the highway is several miles through downtown Seattle where both exits and entrances are located on the left. All lanes are needed through this area in order to keep the traffic flowing in a reasonable manner.

Votes on Final Passage:

Senate	45	1	
House	95	3	(House amended)
Senate	42	1	(Senate concurred)

Effective: July 27, 1997

2SSB 5178

C 276 L 97

Adopting the diabetes cost reduction act.

By Senate Committee on Ways & Means (originally sponsored by Senators Wood, Wojahn, Deccio, Bauer, Fairley, Goings, Prince, Prentice, Franklin, Horn, Patterson and Winsley).

Senate Committee on Health & Long-Term Care  
House Committee on Health Care

**Background:** According to the Washington State Department of Health (*The Health of Washington State*, September 1996):

"About 160,000 people in Washington are known to have diabetes, and an equal number probably have the disease but do not know it. The estimated prevalence is about six percent of the general population.

“Diabetes was associated with 38,909 hospitalizations in Washington in 1994 (rate: 243/1,000 people with diabetes). Most of these admissions are a result of diabetes complications, including coronary heart disease, stroke, diabetes ketoacidosis, and lower extremity amputations. Many of these hospitalizations could be prevented through early detection and appropriate management of diabetes and its complications. Effective interventions include diabetes self-management education and development of systems to coordinate and assure medical management in accordance with current practice guidelines.”

While most health insurance plans provide coverage for diagnosis and treatment for diabetes, studies report that coverage for some diabetes medications, testing and treatment equipment, supplies, self-management education and more is uneven.

**Summary:** The Legislature finds that access to medically accepted standards of care for diabetes, its treatment, supplies, and self-management training and education is crucial to prevent or delay complications of diabetes and its attendant costs.

A diabetic person is defined to include insulin dependent diabetics, non-insulin using diabetics, and those with elevated blood glucose levels because of pregnancy.

After January 1, 1998, state purchased health care, and health carriers licensed by the state who provide health insurance coverage which includes pharmacy benefits within the state, must provide specified coverage for diabetic persons. These provisions do not apply to the Basic Health Plan, or to the plans identical to the Basic Health Plan which insurers are required to offer.

Such coverage must at least include appropriate equipment and supplies, as prescribed by a health care provider, determined medically necessary by a carrier's medical director, including insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits.

All state purchased health care and state regulated health carriers must provide out-patient self-management training and education only by health care providers with expertise in diabetes. Carriers may limit providers who perform services required under the act to those within their provider networks.

Diabetes coverage may be subject to normal cost sharing provisions established for all other similar services or coverage within a policy.

Health care coverage may not be reduced or eliminated due to the act.

A carrier is excluded from the requirements of the act in a plan offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not sub-

ject to state mandated benefits and whose self-insured plans do not include similar benefits to those mandated under the act.

The act is subject to sunset review and terminates on June 30, 2001.

**Votes on Final Passage:**

Senate	49	0	
House	95	2	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** January 1, 1998

**2SSB 5179**

**PARTIAL VETO**

**C 277 L 97**

Correcting inequities in the nursing facility reimbursement system.

By Senate Committee on Ways & Means (originally sponsored by Senators Deccio, Prentice and Wood).

Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** There are five primary components of state Medicaid reimbursement rates for nursing homes. Rates for the operational, administrative, nursing services, and food components for the first year of the current biennium (FY 96) were based upon inflation-adjusted actual spending in the calendar year. This rate was increased by a national index of nursing home inflation in FY 97, and will be increased by 125 percent of the national inflation index in FY 98.

The property rate component is adjusted every year to reflect the current occupancy rate, capital improvements which have occurred in the past year, and the calculated depreciation value of the facility. The depreciation schedule for nursing homes is based upon a national index of the anticipated life of various construction types, and typically runs 30-50 years.

Reimbursement of land costs for new nursing homes is established based on the average county tax assessed value of ten of the nearest nursing facilities.

**Summary:** The following areas considered in determining reimbursement rates are changed:

The allowable cost for land on which new facilities are constructed is limited to the actual cost per square foot or the cost established by a mandatory competent professional appraisal process.

Real estate taxes on new or replacement construction are recognized only on a current funded basis for rate adjustments on non-rebasing years.

New buildings, major remodels and allowable major repair projects have lives for depreciation purposes set according to guidelines published by the American Hospital

Association, but for new construction they will never be set at less than 30 years.

Anticipated patient day levels are used when adjusting the property and return on investment (ROI) components of the rate when facilities reduce capacity by reducing their number of beds.

The minimum occupancy standard for a facility which operated for less than a full year in 1994 is set at 85 percent, rather than 90 percent. Additional reimbursement is provided for a previously-leased facility which was purchased following lessor bankruptcy.

Additional funding is provided for a facility seeking to have acquisition costs recognized by the state. Language is also added which provides an add-on to one facility's reimbursement rate.

**Votes on Final Passage:**

Senate	49	0	
House	85	12	(House amended)
House	88	9	(House reconsidered)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** Language providing special provisions for two nursing homes in the state enabling them to receive grant enhancements above the current Medicaid rate was vetoed.

**VETO MESSAGE ON SB 5179-S2**

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 7 and 8, Second Substitute Senate Bill No. 5179 entitled:

"AN ACT Relating to nursing facility reimbursement,"

Second Substitute Senate Bill No. 5179 seeks to address concerns of owners of state nursing facilities by making corrections to the nursing facility reimbursement system. The legislature has passed this bill to ease the way for owners of nursing homes to make repairs and other improvements to their facilities, for the benefit of those who reside in those homes.

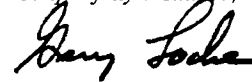
There are, however, two sections of this bill that have special provisions for two particular homes, for which there are no extenuating circumstances. Sections 7 and 8 both apply very narrow criteria to grant rate enhancements to selected facilities above the rate they would normally receive through the payment system.

Special treatment within the state's rate structure could invite legal challenges from homes that do not benefit from this bill. These provisions also invite increased federal scrutiny of the state Medicaid plan, and could possibly jeopardize approval of the plan. Federal law requires that the state reimbursement system must ensure that payments are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities. It would be difficult to argue that the state's payment system complies with this requirement if the law has special provisions for selected nursing homes, without extenuating circumstances.

For these reasons, I have vetoed sections 7 and 8 of Second Substitute Senate Bill No. 5179.

With the exception of sections 7 and 8, Second Substitute Senate Bill No. 5179 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 5181**

C 138 L 97

Making certain debtors liable for any deficiency after default.

By Senators Roach, Fairley, Prentice, Benton and Winsley.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Currently, a creditor holding a "purchase money security interest in consumer goods" taken or retained by the seller of such goods is not able to collect any deficiency from the debtor after default and repossession if the collateral is sold or disposed of for less than the full amount of the outstanding debt.

**Summary:** The restriction against collecting deficiencies is removed, so that debtors are liable for the full amount of any outstanding debt when collateral secured by a "purchase money security interest in consumer goods" is sold by the creditor after default for less than the full amount of any outstanding debt.

**Votes on Final Passage:**

Senate	43	4
House	97	1

**Effective:** July 27, 1997

**SSB 5183**

C 25 L 97

Allowing an interlocal agreement between a county and municipality to transfer jurisdiction over a defendant.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Fairley and Winsley).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** There is currently uncertainty as to whether or not a municipal court defendant held in a county jail facility outside the city limits of the charging city may be transferred to the jurisdiction of the district court for trial.

**Summary:** A city may, by interlocal agreement, contract with the county to transfer jurisdiction and venue over a defendant held in a county jail outside the city limits to the

district court. The same judicial services are provided by the district court as are provided by the municipal court.

**Votes on Final Passage:**

Senate	46	0
House	95	0

**Effective:** April 15, 1997

**SSB 5188**  
**FULL VETO**

Revising policies concerning health care and information about the health status of inmates.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Goings, Long, Hargrove, Zarelli, Schow, Winsley and Rasmussen).

Senate Committee on Human Services & Corrections  
House Committee on Criminal Justice & Corrections

**Background:** Generally, medical records and information about a patient's health care status are confidential and protected from disclosure unless the patient authorizes their release. The confidentiality protections in current state law are not forfeited by offenders when they are convicted of crimes or incarcerated.

Current law requires disclosure of a patient's medical information without the patient's authorization under limited circumstances.

Mandatory disclosure may only occur when: (a) the disclosure is to federal, state, or local public health authorities for the purposes of protecting the public health or when necessary to determine a provider's compliance with federal or state regulations; (b) the disclosure is to federal, state, or local law enforcement agencies as required by law; or (c) the disclosure is pursuant to a compulsory process as provided in state law and the patient has not obtained a protective order.

Additional exceptions exist to the medical confidentiality laws which allow disclosure without a patient's authorization. They include, among others things, disclosures made among medical professionals involved in the treatment or care of the patient; made for the protection of the health and safety of others; made orally to immediate family members; and those disclosures made for the purposes of research, quality control, and audits.

**Summary:** An additional exception is added to the circumstances under which a patient's medical information must be disclosed without the patient's authorization.

The Department of Corrections (DOC) and local correctional facilities are required, upon request, to disclose health care information about inmates when: (1) an offender is sentenced to death; and (2) an offender puts his or her health status at issue by using it as a grounds for an appeal, personal restraint petition, pardon, or clemency petition.

**Votes on Final Passage:**

Senate	39	4	
House	88	7	(House amended)
Senate	44	4	(Senate concurred)

**VETO MESSAGE ON SB 5188-S**

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5188 entitled:

"AN ACT Relating to offenders;"

Substitute Senate Bill No. 5188 would require the full disclosure of 1) the medical information of death row inmates to any person, at any time, for any reason; and 2) the medical information of inmates who use their health status in appeals and petitions for release. Any person would be able to obtain the medical records of these inmates without stating the purpose and intended use of the information.

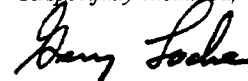
I support the death penalty, and have sought the death penalty as a deputy prosecutor. I strongly support that portion of the legislation that requires the disclosure of an inmate's medical records, if the inmate raises his or her medical condition as part of a court proceeding. However, I strongly disagree with the requirement of this bill that all death row inmates' medical records be disclosed to anybody, at any time, for any reason. Medical information is very personal, and should be subject to disclosure only for compelling reasons.

Because of the way SSB 5188 was drafted, I have only the choice of vetoing or approving the entire bill. I have chosen to veto the bill, and hereby request the legislature to pass legislation next session that is less broad. The portion of the bill that would require disclosure of all death row inmates' medical records stems primarily from the Mitchell Rupe case, where it was rumored that Mr. Rupe sought an organ transplant while on death row. This legislation attempts to address that situation, but goes too far.

If the legislature wants to allow greater disclosure of death row inmates' medical information under certain circumstances, it should pass legislation that is specific about the authorized recipients and the intended purpose that together establish a compelling public interest.

For these reasons, I have vetoed Substitute Senate Bill No. 5188 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5191**  
**PARTIAL VETO**  
C 71 L 97

Increasing penalties for methamphetamine crimes.

By Senate Committee on Law & Justice (originally sponsored by Senators Goings, Roach, Haugen, Schow, Oke, Winsley and Rasmussen).

Senate Committee on Law & Justice  
House Committee on Criminal Justice & Corrections

**Background:** Methamphetamine is a dangerous and powerful stimulant that has become the cheapest and most available drug in the western states. Among the manifestations that can follow the use of methamphetamine are aggression, paranoia, and increased levels of violence. Not only are the users of methamphetamine affected adversely by its use, but the psychological and physical reactions of the users pose a serious threat to innocent bystanders, as well as the law enforcement officers who have to deal with this problem.

Another major problem is that the production of the drug is cheap and easy, but extremely dangerous. And the danger does not stop after the production has ceased. The chemical combinations used in the manufacture of methamphetamine are highly toxic and the costs of cleanup can be a significant and unexpected burden on a community in which a production lab has been operating.

The current maximum penalty for manufacturing, delivering or possession with intent to manufacture or deliver methamphetamine is ten years in prison and a fine of \$50,000 for each kilogram involved when the amount is two or more kilograms.

The current maximum penalty for possession of ephedrine or pseudoephedrine with the intent to manufacture methamphetamine is ten years in prison and a \$25,000 fine.

**Summary:** It is a most serious offense for purposes of sentencing under the persistent offender statute to manufacture, deliver, or possess with intent to manufacture or deliver, methamphetamine.

It is a most serious offense for purposes of sentencing under the persistent offender statute to possess ephedrine or pseudoephedrine with the intent to manufacture methamphetamine.

When a person is convicted of either of these crimes, \$3,000 of the maximum fine allowed may not be suspended. The first \$3,000 of fine money collected from the defendant must be given to the law enforcement agency that has responsibility for cleanup of the laboratories or substances used in the manufacture of methamphetamine. The money given to the law enforcement agency must be used for cleanup costs.

**Votes on Final Passage:**

Senate 46 0  
House 98 0

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the section that makes it a most serious offense for purposes of sentencing to manufacture, deliver, or possess with intent to manufacture or deliver, methamphetamine, or possess ephedrine or pseudoephedrine with intent to manufacture methamphetamine.

**VETO MESSAGE ON SB 5191-S**

April 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 5191 entitled:

“AN ACT Relating to crimes involving methamphetamine;”

This legislation increases the penalties for delivering, manufacturing, and possession with intent to deliver or manufacture methamphetamine, and the possession of ephedrine or pseudoephedrine with the intent to manufacture methamphetamine.

I wholeheartedly agree with sections 2 and 3 of this legislation which require that the first \$3,000 of fine money collected be given to the law enforcement agency responsible for cleaning up methamphetamine manufacturing laboratories or sites. Because the manufacture of methamphetamine involves toxic and explosive chemicals, the cleanup costs for these sites are substantial. The affected law enforcement agencies should be reimbursed through fines collected from the responsible offenders, as SSB 5191 provides.

Section 1 of SSB 5191 would extend the “Three Strikes” law - which mandates life imprisonment on the third offense - to simple addicts as well as methamphetamine manufacturers and distributors. I do not believe that the “Three Strikes” law is likely to deter simple drug addicts. Rather, we need to address the problems that lead our youth into drugs in the first place.

I share the Legislature’s concern with the very serious problem of increased methamphetamine abuse in Washington. This legislation brings to our attention the dangers of the growing use of methamphetamine. We must take immediate steps to address the problem in an effective manner, especially to prevent our youth from becoming addicted to this and other drugs. The problem must be attacked from every direction, all at once. This will take political will, strong law enforcement and an educated public.

However, this legislation would represent a fundamental shift in our criminal jurisprudence. It would have, for the first time, extended the “Three Strikes” law to non-violent offenders. That is a step that cannot be taken lightly. If one category of non-violent drug offenses is added, what would be next? How would we draw the line between non-violent crimes that should or should not be “strike” crimes?

Many simple drug addicts sell small amounts of drugs to feed their habit. Sending methamphetamine addicts to prison for life on the third “strike” - consisting of the crime of possession with the intent to sell even small amounts of methamphetamine - would divert more and more of the state’s scarce resources from prevention efforts that provide a more immediate and effective response to the problem.

For these reasons I have vetoed section 1 of Substitute Senate Bill No. 5191. With the exception of section 1, Substitute Senate Bill No. 5191 is approved.

Respectfully submitted,

Gary Locke  
Governor

**SB 5193**

C 438 L 97

Revising sales and use tax exemptions for farmworker housing.

By Senators Prentice, Newhouse, Sellar, Morton, Deccio, Rasmussen, Winsley and Hale; by request of Department of Revenue.

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** In 1996, the Legislature provided an exemption from sales and use tax for labor, services and materials used in the construction and maintenance of farmworker housing. Such housing must be used to house agricultural employees for at least five years from the date the housing is approved for occupancy. Housing built for family members and people with an ownership in the farm is not eligible for the tax exemption.

The current sales and use tax exemption is available only to housing provided by an employer.

**Summary:** The exemption from the sales and use tax is extended to agricultural employee housing provided by housing authorities, government agencies and nonprofit organizations.

If the farmworker housing not located on agricultural land ceases at any time in the future to be used for that purpose, the full amount of the sales and use tax becomes due and payable. For housing provided by a housing authority to be eligible for the exemption from sales and use tax, at least 80 percent of the occupants must be agricultural employees with incomes less than 50 percent of median family income.

**Votes on Final Passage:**

Senate	48	0	
House	91	3	(House amended)
Senate	47	1	(Senate concurred)

**Effective:** May 20, 1997

**SB 5195**

C 408 L 97

Providing for taxation of membership sales in discount programs.

By Senators Deccio and Newhouse; by request of Department of Revenue.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The retail sales tax and the business and occupation (B&O) tax use the same definition of retail sale.

The B&O tax is Washington's major business tax. This tax is imposed on the gross receipts of business activities

conducted within the state. There are several different rates under the B&O tax. There are no deductions for the costs of doing business. Although there are several different rates, on July 1, 1997 the principal rates will be as follows:

Manufacturing/wholesaling/extracting	0.484%
Retailing	0.471%
Services	
- Business Services	2.0%
- Financial Services	1.6%
- Other activities	1.75%

The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total rate is between 7 percent and 8.2 percent, depending on the location.

Currently, the B&O service rate is applied to the gross receipts of businesses that develop programs that entitle members to discounts on the purchase of products or service from participating vendors.

**Summary:** A B&O exemption is provided for sales of memberships when the membership materials are delivered out of state.

**Votes on Final Passage:**

Senate	47	1	
House	62	32	(House amended)
Senate	36	6	(Senate concurred)

**Effective:** July 1, 1997

**SB 5211**

C 35 L 97

Authorizing public hospital districts to be self-insurers.

By Senators Newhouse, Wojahn and Schow.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Group self-insurance was permitted by the Legislature in 1983 for school districts, educational service districts and hospitals. One group was allowed for public hospitals and one for other hospitals. Employees of public hospital districts that are not hospital employees may not be covered under the public hospital group self-insurance plan because public hospital districts were not included in the 1983 authorizing legislation.

**Summary:** Public hospital districts may enter into an agreement to join the public hospital self-insurance group.

**Votes on Final Passage:**

Senate	47	0
House	97	0

**Effective:** July 27, 1997

**ESSB 5212**  
**FULL VETO**

Limiting property taxes.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Hale, Zarelli, Johnson, McDonald, McCaslin, Deccio, West, Schow, Horn, Strannigan, Hochstatter, Benton, Sellar, Anderson and Oke).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All real and personal property in this state is subject to the property tax each year based on its value unless a specific exemption is provided by law.

Real property lying wholly within individual county boundaries is assessed based on its value by the county assessor. Intercounty, interstate, and foreign utility and transportation companies are assessed based on their value by the Department of Revenue. Property assessed by the Department of Revenue is referred to as state-assessed or centrally assessed property.

Property taxes are imposed on the assessed value of property. Current law requires the assessment to equal 100 percent of the fair market value of the property on July 31 of the assessment year for new construction and on January 1 of the assessment year for all other property.

County assessors revalue property periodically on a regular revaluation cycle. The length of the revaluation cycle varies by county. The most common length is four years, which is the maximum allowed by statute. In counties on a four-year revaluation cycle, the change in the tax assessment in the year of revaluation reflects four years of market value changes. Changes in assessments are determined by changes in the real estate market. Therefore, there is no limit to the amount an assessment may increase or decrease.

In 1971, the Legislature imposed a statutory lid on regular property tax levy increases. Under this lid, regular property taxes levied by a taxing district in any year may not exceed 106 percent of the taxes levied by the district in the highest of the preceding three years. Added to this amount is the previous year's tax rate multiplied by the assessed value in the district that results from new construction and improvements to property in the previous year and any increase in the value of state-assessed property. To remove the incentive to maintain a high levy, taxing districts other than the state are assumed to have levied the maximum allowed since 1986.

The 106 percent limit is not a limitation on the amount of taxes that may be imposed on an individual taxpayer but rather is an aggregate limit on the amount of property taxes that may be levied by a taxing district.

**Summary:** A limitation is placed on adding to the tax rolls large valuation increases to real property. Each year, the current appraised value is compared to the assessed

value for the previous year. The new assessed value is determined according to the following chart:

Difference	New Assessed Value
Negative to +15%	Appraised value
Between 15% & 60%	Old assessed value plus 15%
Over 60%	Old assessed value plus 25% of the difference

Improvements to property (new construction and remodeling) are always added separately at their appraised value.

This value is used in calculating state and local levies beginning with 1999 taxes.

The 106 percent limit is changed to the lesser of (1) 106 percent or (2) 100 percent plus the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before taxes are payable. However, a 106 percent limit applies to a taxing district with a population of less than 10,000. In addition, a taxing district other than the state may provide for the use of a limit of 106 percent or less for any year. In districts with legislative authorities of four members or less, two-thirds of the members must approve the change. In districts with more than four members, a majority plus one vote must approve the change.

The change in the 106 percent limit applies to 1998 taxes and thereafter.

No increase in property tax revenue, other than that resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, may be authorized by a taxing district other than the state, except by adoption of a separate ordinance or resolution, pursuant to notice, specifically authorizing the increase in terms of both dollars and percentage. The ordinance or resolution may cover a period of up to two years, but the ordinance must specifically state for each year the dollar increase and percentage change in the levy from the previous year.

**Votes on Final Passage:**

Senate	28	17	
House	63	34	(House amended)
Senate	33	16	(Senate concurred)

**VETO MESSAGE ON SB 5212-S**

February 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5212 entitled:

"AN ACT Relating to limiting property taxes by reducing the one hundred six percent limit calculation and allowing for valuation increases to be spread over time;"

Engrossed Substitute Senate Bill No. 5212 provides a "smoothing" mechanism that averages over time the value of property that is rapidly appreciating. In addition, the bill



reduces the 6 percent growth limit to the rate of inflation for the state property tax levy and, under specific circumstances, for local regular taxing districts.

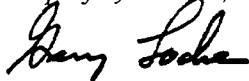
*I personally favor some mechanism for smoothing large spikes in property valuation. This proposal, however, contains several fatal flaws. First, county assessors have pointed out numerous technical and implementation problems with the bill as passed. More significantly, the smoothing mechanism divides property into classes and treats the classes differently. This would violate the state Constitution.*

*The cost and benefits of this legislation must also be considered. This legislation would substantially reduce state revenues - by almost \$100 million in the 1997-99 biennium, nearly \$300 million in the next biennium, and by more than \$460 million in the 2001-03 biennium - with minimal relief to homeowners. Homeowners should be the targeted beneficiaries of property tax relief as part of a comprehensive tax cut package that includes reductions in business taxes. ESSB 5212 does not further these goals.*

*The people of the state deserve a comprehensive approach to property tax reform rather than the short-sighted, piecemeal approach taken by the legislature so far. Washington's citizens deserve reasonable, fair and sustainable tax reform that does not jeopardize future investments in education and public safety and the maintenance of a healthy economy for future generations. I believe we can and should work together to achieve real reform for our citizens.*

*For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5212 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

## SSB 5218

C 254 L 97

Placing restrictions on postretirement employment.

By Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Winsley, Long, Bauer, Franklin, Roach and Loveland; by request of Joint Committee on Pension Policy).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** An active member in the Public Employees Retirement System (PERS) Plan I and II, Teachers Retirement System (TRS) Plan I, II, and III, and Law Enforcement Officers and Fire Fighters Retirement System Plan II may retire and subsequently return to work.

**Summary:** "Separation from service" is defined as the date the member's employer reports to the Department of Retirement Systems that the person has terminated all employment.

If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance is reduced by 5½ percent for every seven hours worked in the month for a maximum of 140 hours per month for TRS and for

every eight hours worked in a month for a maximum of 160 hours per month for PERS. The reduction is applied each month until the retiree remains absent from employment with an employer for one full calendar month.

The definition of an employee is clarified.

For the PERS system, these changes apply retroactively to any person who retired under the early retirement windows enacted in 1992 and 1993, and to all cases of overpayment identified by the Department of Retirement Systems after June 1, 1996.

### Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 1997

## ESB 5220

C 72 L 97

Establishing minimum benefits on the Washington state patrol retirement system.

By Senators Long, Fraser, Winsley, Bauer, Franklin and Patterson; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** In the Washington State Patrol Retirement System, the minimum retirement allowance for members with at least 25 years of service and for surviving spouses of members with at least 25 years of service is \$500 per month. The minimum for those with less than 25 years of service is \$13 for each year of service if they are receiving Social Security.

**Summary:** The minimum retirement allowance for both members and surviving spouses is set at \$20 per month for each year of service.

### Votes on Final Passage:

Senate	46	0
House	98	0

Effective: July 27, 1997

## SB 5221

C 73 L 97

Specifying eligibility for survivor benefits.

By Senators Long, Winsley, Fraser, Bauer, Franklin and Patterson; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** Public Employees Retirement System (PERS) Plan 1 and Teachers Retirement System (TRS) Plan 1 survivor benefits may be lower when a member dies in active service rather than after retirement for disability. Occasionally, a PERS 1 or TRS 1 member dies between the time they have begun applying for disability retirement and official retirement for disability. In these cases the survivor benefit is based on the member being active rather than retired.

**Summary:** The beneficiary of a disability retiree, or a disability retirement applicant, has the option of choosing between the active member and disability retiree death benefit if the member dies within 60 days after applying for a disability retirement.

**Votes on Final Passage:**

Senate	45	0
House	98	0

**Effective:** April 19, 1997

**SSB 5227**  
**PARTIAL VETO**  
C 332 L 97

Regulating the sales of nonprofit hospitals.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Franklin, Patterson, Prentice, Benton, Wojahn and Long).

Senate Committee on Health & Long-Term Care  
Senate Committee on Ways & Means  
House Committee on Health Care  
House Committee on Appropriations

**Background:** Nonprofit organizations, including hospitals, are created under laws that require them to serve charitable or other public purposes. In return, federal and state laws accord them certain financial advantages such as tax exemption. On a national level, however, nonprofit hospitals are increasingly being acquired by for-profit corporations. When this occurs, there is a public interest in insuring that the acquiring corporation will continue to provide the community served by the hospital with quality, affordable health care and that the proceeds from the transaction will be used for charitable purposes. There is concern that should such acquisitions occur in Washington, our laws are insufficient to ensure that these public interests will be served.

Public hospital districts were created in 1945 as junior taxing districts, to put hospitals in areas where private development did not appear viable. These districts are administered by elected boards of commissioners. Presently, although they are named hospital districts, many provide health services in addition to hospital care; a few have no hospitals at all. Concerns have also been ex-

pressed about the acquisition of public district hospitals by for-profit corporations.

**Summary:** Except for a nonprofit corporation or government entity, a person may not acquire a hospital owned by another nonprofit corporation without the approval of the Department of Health.

A process is provided whereby the department is to review and rule upon an application for a nonprofit hospital acquisition. The department is to charge an application fee to cover the costs of implementing the bill. The review process must include public notice, the opportunity to submit written comments, and a public hearing in the county where the hospital being acquired is located. The department may also subpoena information and witnesses, require sworn statements, and take depositions. A completed application must be ruled upon within 120 days of its receipt. For good cause, this deadline may be extended for up to 30 days.

As part of the review process, the Attorney General is to provide the department with a written opinion as to whether or not the proposed acquisition meets the requirements of the act.

The department may only approve an acquisition if it determines that appropriate steps have been taken to safeguard charitable assets and to ensure that any proceeds of the transaction are used for appropriate charitable health and health care purposes. Criteria are enumerated for making this determination.

The department may only approve an acquisition if it also determines that the acquisition will not detrimentally affect the continued existence of accessible, affordable health care that is responsive to the needs of the community where the hospital being acquired is located. Criteria are enumerated for making this determination.

The Secretary of State may not accept any documents in connection with an acquisition until the acquisition is approved by the department. The Attorney General may seek an injunction to prevent any unapproved acquisition.

All parties to the acquisition are required to periodically report to the Department of Health regarding compliance with commitments made in the acquisition process. If, after a hearing, the department determines that the acquiring party is not fulfilling its commitment, it may revoke or suspend the license of that party, or refer the matter to the Attorney General for appropriate action.

The acquisition of the property of a public hospital district may only be authorized by the district's commissioners after consideration of certain enumerated criteria. Prior to this approval, the Department of Health is to provide an opinion regarding the merits of the acquisition. The district's authority to enter into joint agreements is expanded. Public hospital districts are renamed public health care service districts.

**Votes on Final Passage:**

Senate 49 0  
 House 82 16 (House amended)  
 Senate 49 0 (Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The emergency clause and immediate effective date were vetoed.

**VETO MESSAGE ON SB 5227-S**

May 13, 1997

To the Honorable President and Members,  
 The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 21, Substitute Senate Bill No. 5227 entitled:

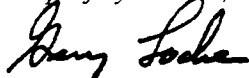
"AN ACT Relating to nonprofit hospital sales;"

Section 21 of SSB 5227 is an emergency clause requiring the immediate implementation of the bill. Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions. Without section 21, the bill will be effective July 27, 1997.

For this reason, I have vetoed section 21 of Substitute Senate Bill No. 5227.

With the exception of section 21, I am approving Substitute Senate Bill No. 5227.

Respectfully submitted,



Gary Locke  
 Governor

**SB 5229**  
 C 298 L 97

Extending permitted uses of assembly halls and meeting places to maintain property tax exemptions.

By Senators Prince, Loveland, Morton, Oke, Stevens, Fraser, Swecker, Rasmussen, Hochstatter, Johnson, Bauer, Horn, Snyder, Winsley, Roach, McDonald and Haugen.

Senate Committee on Ways & Means  
 House Committee on Finance

**Background:** Nonprofit public assembly halls or meeting places are exempt from property taxes.

The assembly hall or meeting place exemption is restricted to the buildings, the land under the buildings, and up to one acre of parking area. For essentially unimproved property, the exemption is limited to 29 acres. To qualify for exemption, the property must be used for public gatherings and be available to all organizations or persons desiring to use the property.

The property cannot be used for pecuniary gain or to promote business activities except:

1. For fund-raising activities of a nonprofit organization.
2. The use for pecuniary gain for periods of not more than three days in a year.

3. An inadvertent use of the property which is inconsistent with the purpose of the exemption if the use is not part of a pattern of use. An inadvertent use that is repeated in the same assessment year or in successive assessment years is presumed to be part of a pattern of use.

**Summary:** The property tax exemption for nonprofit public assembly halls and meeting places is not lost by the use for pecuniary gain or to promote business activities for periods of not more than seven days in a year.

**Votes on Final Passage:**

Senate 48 0  
 House 92 2 (House amended)  
 Senate (Senate refused to concur)  
 House 96 2 (House receded)

**Effective:** July 27, 1997

**SSB 5230**  
 C 299 L 97

Revising current use taxation provisions.

By Senate Committee on Ways & Means (originally sponsored by Senators Rossi, Haugen, McCaslin, McDonald and Hale).

Senate Committee on Ways & Means  
 House Committee on Finance

**Background:** Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are five categories of lands that may be classified and assessed on current use. Three categories are covered in the open space law: open space lands, farm and agricultural lands, and timber lands; and two are in the timber tax law: classified and designated forest land.

The land remains in current use classification as long as it continues to be used for the purpose for which it was placed in the current use program. Land is removed from the program: at the request of the owner, by sale or transfer to an ownership making the land exempt from property tax; or by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The assessor may also remove land from the program if the land no longer meets the criteria for classification.

When property is removed from current use classification, back taxes plus interest must be paid.

For open space categories, back taxes represent the tax benefit received over the most recent seven years, plus interest at the rate of 12 percent from the time the taxes could have been paid. In addition, a penalty equal to 20 percent of the back taxes and interest is applied. The penalty may be avoided if the property remains in the program for at least 10 years and a two-year waiting period after notice of withdrawal is satisfied.

For classified and designated forest land, back taxes are equal to the tax benefit in the most recent year times the number of years in the program (but not more than ten).

There are some exceptions to the requirement for payment of back taxes. For example, back taxes are not required on the transfer of the land to an entity using the power of eminent domain or in anticipation of the exercise of that power.

The back tax exceptions are slightly different for the open space program and the forest land program. For example, an exception is allowed under the open space program if government action no longer permits the present use of the property. The forest land program does not have this exception. In the open space program, an exception to the payment of back taxes is allowed for a sale or transfer to a governmental entity or nonprofit historic preservation or nonprofit nature conservancy corporation for the purpose of conserving open space land. However, in the forest land program, the similar exception is much more restrictive. The forest land exception is restricted to a sale or transfer to a governmental entity or nonprofit nature conservancy corporation for conservation purposes of land recommended for state natural area preserve purposes by the Natural Heritage Council.

**Summary:** Back taxes do not have to be paid for forest land that is removed from classification or designation if official action disallows the present use of the land. In counties with a population of over one million, an exception to the payment of back taxes for forest land is allowed for a sale or transfer to a governmental entity or nonprofit historic preservation or nonprofit nature conservancy corporation for the purpose of conserving open space land.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** May 9, 1997

**SB 5243**

C 74 L 97

Exempting disabled veterans from reservation fees for state parks.

By Senators Oke, Rasmussen, Winsley, Morton, Benton, Prince, Stevens, Horn, Zarelli, Long, Roach, Swecker, Deccio, McCaslin, Hale, Sellar, Johnson, Bauer, McAuliffe and Haugen.

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** Current law entitles any Washington State resident, who is a veteran with at least a 30 percent service-connected disability, to a lifetime veteran's disability pass at no cost. The pass entitles (1) the person to free admission to any state park, and (2) the person and members of the camping unit to free use of any campsite within any state park.

ity pass at no cost. The pass entitles (1) the person to free admission to any state park, and (2) the person and members of the camping unit to free use of any campsite within any state park.

**Summary:** Any Washington State resident, who is a veteran with at least a 30 percent service-connected disability, is entitled to an exemption from any reservation fees.

**Votes on Final Passage:**

Senate	47	0
House	98	0

**Effective:** July 27, 1997

**SB 5253**

C 395 L 97

Allowing nonresidents under the age of fifteen to obtain a free fishing license.

By Senators Strannigan, Oke, Hargrove, Roach, Morton, Swecker, Horn and Winsley.

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** Current law requires nonresident youths under 15 years of age to pay \$20 for a fishing license for game fish. Resident youths under 15 years of age are not required to have a fishing license.

**Summary:** A fishing license is not required for resident or nonresident juveniles under 15 years of age. Nonresident juveniles under 15 years of age must be accompanied by an adult, with a valid Washington fishing license, to qualify for exemption from the \$20 nonresident fishing license fee.

**Votes on Final Passage:**

Senate	47	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	93	1	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5254**

C 26 L 97

Limiting liability of owners or possessors for injuries to recreational users.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Long, Roach, Haugen, Jacobsen, Fraser, Zarelli, Strannigan, Deccio, Thibaudeau, Wood, Fairley, Goings and Winsley).

Senate Committee on Natural Resources & Parks  
House Committee on Law & Justice

**Background:** In common law, a landowner's duty of care to persons entering his or her land is governed by the status of those entering, i.e., trespassers, licensees, or invitees. Generally, a landowner owes trespassers and licensees the duty to refrain from willfully or wantonly injuring them, whereas to invitees the landowner owes an affirmative duty to use ordinary care to keep the premises in a reasonably safe condition.

The recreational land statute was enacted in 1967 to encourage the owners of agricultural or forest lands to open land for gratuitous recreational use by limiting landowner liability.

The limitation of liability is not without exceptions: (1) when the recreational user is charged a fee; (2) when the user is injured by intentional acts; or (3) when the user sustains injuries caused by a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

"Artificial" means not naturally occurring, caused by man. "Latent" means not apparent to the general class of users. The condition itself must be latent, not just the danger. "Known" means actual knowledge of the danger itself and the fact that the danger is latent (differing from common law in which constructive knowledge is recognized).

**Summary:** Public or private landowners who allow members of the public to use their lands for purposes of skateboarding or other nonmotorized wheel based activities, hang gliding, or paragliding are not liable for unintentional injuries to users.

**Votes on Final Passage:**

Senate	48	0
House	95	0

**Effective:** July 27, 1997

**SB 5266**

C 247 L 97

Regulating engineers and land surveyors.

By Senators Horn, Fraser, Newhouse and Schow; by request of Department of Licensing.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** The Department of Licensing and the Board of Registration for Professional Engineers and Land Surveyors have identified a number of provisions in the Engineers and Land Surveyors Licensing statute that require modifications to update and make the department's administrative procedures consistent, and to clarify the tasks and authority of the board.

**Summary:** Two individuals may be appointed upon request to serve as pro-tem members on the board. Temporary members must meet the same qualifications as regular members. Temporary members must have the same powers, duties, and immunities of regular members. Appointments must not last longer than 180 days.

The board conducts investigations in response to a written, sworn statement of complaint concerning alleged violations of the statute or the rules adopted by the board. The board must immediately inform a registrant when a complaint is filed against him or her.

Application requirements, such as a certified financial statement and statement of the experience of the corporation, are removed. A professional service corporation is exempt from having to obtain a certificate of authorization from the board. A partnership is exempt from having to obtain a certificate of authorization provided it employs a licensed individual. A certificate of authority is to be granted to limited liability companies.

Regulation, equivalent to that of engineering, is extended to land surveyors.

**Votes on Final Passage:**

Senate	47	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 27, 1997

July 1, 1998 (Section 4)

**SSB 5267**

C 322 L 97

Correcting real estate brokers and salespersons statutes for administrative and practical purposes.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Horn, Heavey, Schow and Newhouse; by request of Department of Licensing).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** The Department of Licensing has identified a number of provisions in the real estate and salespersons licensing and practices statutes that require modifications to make the provisions consistent with current department practices and policy and the Administrative Procedure Act.

**Summary:** A number of modifications are made to the real estate brokers and salespersons licensing and practice act. They include the following:

*Changes to the Department's Administrative Procedures.* Licensing procedures cover limited liability companies and limited liability partnerships, in addition to corporations. An automatic "stay" of administrative decisions against a licensee is replaced by requiring a motion for "stay" to be filed with, heard and granted by superior court. Any real estate broker or real estate salesperson is

## SSB 5270

prohibited from sharing any part of his or her commission or other compensation with any unlicensed real estate practitioner in any foreign jurisdiction which has a real estate regulatory program.

*Changes to the Director's Duties.* References to frequency of exam administrations and mandated geographical region references are removed. However, the Real Estate Commission must ensure that examinations are prepared and administered at examination centers throughout the state.

Technical modifications to the statute, such as updating the terminology to reflect current standards of practice, industry terms, and to maintain gender neutral references are also made.

### Votes on Final Passage:

Senate	46	0	
House	94	0	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** July 27, 1997

## SSB 5270

C 359 L 97

Authorizing the state investment board to create public entities for the purposes of handling real estate and other investment assets.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Winsley and Snyder; by request of State Investment Board).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** The Legislature created the Washington State Investment Board in 1981 to administer public trust and retirement funds. There are 14 members who serve on the board: one representative of retired public employees; one representative of retired law enforcement officers and fire fighters; one representative of retired teachers; the State Treasurer; a member of the state House of Representatives; a member of the state Senate; a representative of retired state employees; the Director of the Department of Labor and Industries; the Director of Retirement Systems; and five nonvoting members appointed by the State Investment Board with experience in making investments.

The State Investment Board manages 23 funds which total approximately \$35 billion. The funds are divided into three classes: retirement, insurance, and permanent.

Washington law requires that the State Investment Board establish investment policies and procedures that are designed exclusively to maximize return at a prudent level of risk. However, the Department of Labor and Industries' accident, medical aid, and reserve funds, investment policies and procedures are designed to limit fluctuations in industrial insurance premiums, and subject

to that purpose, maximize returns at a prudent level of risk.

In order to achieve its investment goals the board divides specific areas of responsibility to committees of the board. The board committees consist of selected board members that act as extensions of the board. These committees analyze investment issues in detail, and make recommendations to the full board. The board has established four committees: administrative, audit, private markets, and public markets.

It has been suggested that the board safeguard its funds from liabilities that may result from investments where losses could exceed the amount invested. An example of this type of investment is real estate that may become subject to an exceptional assessment. In order to assure that future liabilities are limited to the amount invested, it is recommended that the board have the ability to create separate entities that hold these investments, such as public corporations, limited liability companies, or limited partnerships. By holding these investments in separate entities, the board could limit potential liability to the amount invested.

Income from board funds is considered state funds and must be deposited in a financial institution that meets the requirements of the Public Deposit Protection Commission. Concern has been expressed that outside managers, investment advisors, and entities created by the board are subject to these requirements before distributions have been made to the board.

**Summary:** The State Investment Board is authorized to create corporations, limited liability companies, and limited partnerships. The board is permitted to create these entities for the purposes of transferring, acquiring, holding, overseeing, operating or disposing of real estate, or other investment assets that are not publicly traded on a daily basis or on an organized exchange. The liability of each entity created by the board is limited to the amount of investment held by that entity. The directors, officers or other appointees to these holding entities must be board members, board staff, or employees and agents of managers or investment advisors.

Any entity created by the board has the same exemption from taxation as the state of Washington. However, holding entities created by the State Investment Board pay an amount equal to the taxes levied upon real property and personal property as if the property were held in private ownership. Rents and other income held for investment by the board or held by an entity created by the board are not subject to the requirements of the Public Deposit Protection Commission until distributions are made to the board.

### Votes on Final Passage:

Senate	47	1	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	97	0
Senate	43	0

**Effective:** July 27, 1997

**ESSB 5273**

C 424 L 97

Regulating compensatory mitigation.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Fraser, Swecker, Prentice, Strannigan and Haugen).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** Development impacts to wetlands and aquatic resources are regulated at the state level by the Department of Ecology and the Department of Fish and Wildlife.

The Department of Ecology issues a water quality certification for any federally-permitted activity that may result in a discharge to state water. Modification of wetlands or aquatic resources will typically require a Clean Water Act 404 Permit from the Army Corps of Engineers. The Department of Ecology may condition the federal permit to meet applicable state laws.

The Department of Fish and Wildlife issues a Hydraulic Project Approval (HPA) for any project that will use or change the natural flow of any waters of the state. In accordance with the State Hydraulic Code, the HPA may be conditioned or denied for the protection of fish life. The Department of Fish and Wildlife typically requires that impacts to wetlands or aquatic resources be mitigated on the project site and with a similar habitat type.

Cleanup of aquatic resources under state or federal hazardous waste cleanup laws may include dredging or capping of contaminated sediments. Currently, agencies may require mitigation for any activities with impacts to aquatic resources.

Concern exists that the process for review of wetland and aquatic resource mitigation is unpredictable and time consuming. It has been suggested that a process of advanced mitigation planning that would allow off-site mitigation would provide greater predictability in the permitting process and improve habitat protection.

**Summary:** Compensatory mitigation is defined to include mitigation that occurs in advance of a project's planned environmental impacts, either on or off the project site, and that may provide different biological functions from the functions impacted by the project.

A project proponent may propose a mitigation plan for infrastructure development. The mitigation plan must include provisions guaranteeing the long-term viability of the mitigation site, and provisions for long-term monitoring of the mitigation site. The mitigation plan must be

consistent with the local comprehensive land use plan and any other applicable planning process.

The Department of Ecology and the Department of Fish and Wildlife must review and give due consideration to mitigation plans that improve the overall biological functions of the watershed and accommodate infrastructure development. Consideration must be based on a number of factors, including the relative value of the mitigation for the target resources, the compatibility of the proposal with broader resource management plans, and the benefits of the proposal for the entire watershed. The departments are not required to grant approval to any plan that does not provide equal or better biological functions and values within the watershed or bay. The departments may schedule review of mitigation plans to conform to available budgetary resources.

The Department of Fish and Wildlife may not require mitigation for sediment dredging or capping actions that result in a cleaner aquatic environment and equal or better habitat functions.

**Votes on Final Passage:**

Senate	39	9	
House	94	3	(House amended)
Senate	37	7	(Senate concurred)

**Effective:** July 27, 1997

**ESSB 5274**

FULL VETO

Limiting disclosure of students' social security numbers.

By Senate Committee on Education (originally sponsored by Senators Schow, Hochstatter, Zarelli, Stevens, Strannigan, Rasmussen, Deccio, Benton, Roach, Horn and Winsley).

Senate Committee on Education  
House Committee on Education

**Background:** Federal law (the Privacy Act of 1974) requires all governmental agencies requesting the disclosure of an individual's Social Security number to notify the individual of the following: (1) whether disclosure of the number is required or optional; (2) which authority permits the agency to request disclosure of the number; (3) how the number will be used; and (4) the consequences for failure to provide the number.

Currently, state laws do not provide limitations on a public school's request for disclosure of a student's Social Security number.

**Summary:** School districts are prohibited from requesting a student's Social Security number, except for employment purposes if the student is a school employee, for Medicaid reimbursement purposes, or when explicitly required by federal law. When a school district requests disclosure of a student's Social Security number, the school must use a consent form that contains a disclosure

statement and is signed by the parent or guardian. The disclosure statement must include the following: (1) whether disclosure is mandatory or voluntary; (2) which federal or state statute or regulation requires the disclosure; (3) how the number will be used; and (4) who will have access to it. It is unlawful for a public school to deny a student any right, benefit, or privilege if a student or parent refuses to disclose the Social Security number.

No school employee may release a student's Social Security number without written consent, except in limited circumstances. The request for release must include the following: (1) whether disclosure is mandatory or voluntary; (2) which federal or state statute or regulation requires the disclosure; (3) how the number will be used; and (4) who will have access to it.

Schools may develop an individual student identification number, unrelated to the student's Social Security number, to maintain student records.

**Votes on Final Passage:**

Senate	45	4	
House	64	32	(House amended)
Senate	32	13	(Senate concurred)

**VETO MESSAGE ON SB 5274-S**

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5274 entitled:

"AN ACT Relating to disclosure of students' social security numbers;"

The federal Family Educational Rights and Privacy Act (FERPA) provides strong safeguards of individual privacy:

- Schools may not require a student or parent to provide a student's social security number;
- Schools may not penalize a student or parent for not providing a social security number; and
- Schools may not release a student's social security number without consent.

I have no objection to putting these important safeguards in state as well as federal law. However, Engrossed Substitute Senate Bill No. 5274 goes beyond the federal safeguards by prohibiting schools from requesting social security numbers (with limited exceptions).

This legislation would prohibit using social security numbers for:

- Student identification numbers;
- Positive identification of two or more students with the same name;
- Following student movement between schools; and
- Tracking the college experience and employment of high school graduates.

In December of 1995 the Superintendent of Public Instruction adopted an official policy on Privacy and Confidentiality. In 1996 the Superintendent also distributed a suggested privacy and confidentiality policy for all school districts. I believe these policies, in conjunction with federal requirements, protect the privacy of Washington citizens.

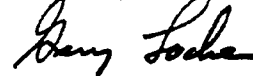
I too have deep concerns about public and private entities requesting social security numbers. I welcome the legislature engaging in a comprehensive review of the use of social security

numbers within our society and would join in efforts to restrict to whom social security numbers can be disseminated.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5274 in its entirety.

I am hereby returning, without my approval, Engrossed Substitute Senate Bill No. 5274.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5276**

**PARTIAL VETO**

C 360 L 97

Providing an alternative for persons whose water rights permits were conditioned due to impact on existing rights or established flows.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Roach and Oke).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** Water right applications can be denied or conditioned in order to protect existing water rights. Under current law, existing water rights include instream flows established by rule by the Department of Ecology.

Applications for ground water rights are reviewed for potential impact to surface waters if the surface and ground waters are determined to be hydraulically connected.

During the 1996 session, legislation was enacted that requires the Department of Ecology, when considering an application for a water right, to take into consideration benefits of water impoundments that are included as a component of an application. The department is to consider any increase in water supply from the impoundment including the recharge of any ground water that may occur. Provision for impoundment in an application is at the sole discretion of the water right applicant.

Currently, there is no explicit provision that allows a water right applicant the option to provide a means to offset the impact that a proposed water right application has on existing water rights.

**Summary:** The Department of Ecology is to take into consideration the benefits of an impoundment or other resource management techniques that offset the impact of the proposed water diversion when proposed by a water right applicant.

When evaluating a water right application, the department must take into account the recharge of ground water from septic tanks in an amount that is equivalent to the proposed indoor use of water. The department is required



to use hydrogeologic data to determine the amount of re-charge.

In addition to considering the benefits of impoundments, the costs and environmental effects must be considered.

**Votes on Final Passage:**

Senate	37	11	
House	95	0	(House amended)
Senate	37	3	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** Deleted is the provision that requires the department, when considering a water right application, to take into account the amount of water that is returned to the ground from a proposed indoor use of water.

**VETO MESSAGE ON SB 5276-S**

May 14, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4 and 5, Substitute Senate Bill No. 5276 entitled:

"AN ACT Relating to water withdrawals and diversions;"

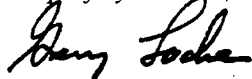
Substitute Senate Bill No. 5276 provides mitigation policy direction for the state as it relates to water rights, transfers, changes and amendments. Sections 1 through 3 of the bill provide innovative mitigation policy direction to help the state address increased demand on our finite water resources while protecting the environment, and I support those sections.

Sections 4 and 5 of SSB 5276 contain provisions that would require the termination of water rights if the right holder were to stop using a septic system or other wastewater treatment facility that was recharging the water supply. It would create an impractical expectation that the water right would be terminated if sewers eventually replace the septic systems or other wastewater treatment facilities involved. These sections also create a disincentive to convert from septic systems to sewers, contrary to state policy.

For these reasons, I have vetoed sections 4 and 5 of Substitute Senate Bill No. 5276.

With the exception of sections 4 and 5, Substitute Senate Bill No. 5276 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 5283**

C 165 L 97

Clarifying deductions from offender funds other than wages and gratuities.

By Senators Hargrove and Long.

Senate Committee on Human Services & Corrections  
House Committee on Criminal Justice & Corrections

**Background:** As a result of legislation passed in 1995, the Department of Corrections began deducting 35 percent of funds received by inmates from sources outside the institution, effective May 20, 1996.

The deductions include 20 percent for costs of incarceration; 10 percent for mandatory savings to be distributed to offenders upon release; and 5 percent for crime victims compensation.

These deductions are currently the subject of a class action lawsuit in federal district court, where the inmates are challenging the deductions as a violation of their constitutional and federal rights. On December 31, 1996, a United States magistrate judge issued his report and recommendations to the federal court regarding the state's motion to dismiss the lawsuit. The court adopted the report and recommendations in an order issued on April 9, 1997.

The report recommended dismissing nearly all of the inmates' claims. The magistrate judge, however, identified two issues that may warrant further court review, one of which relates to the possibility that the mandatory deductions may constitute double jeopardy in rare cases.

The report identified a hypothetical situation where an individual inmate may be required to incur "a grossly disproportionate share of the costs of incarceration" if he or she received a large enough amount of outside funds where the 20 percent deductions would exceed the state's actual costs of incarcerating the inmate.

**Summary:** The amount of money deducted from inmate funds received from outside sources may not exceed the Department of Corrections' total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

**Votes on Final Passage:**

Senate	46	0
House	93	3

**Effective:** July 27, 1997

**ESSB 5286**

C 181 L 97

Clarifying the taxation of intangible personal property.

By Senate Committee on Ways & Means (originally sponsored by Senators Horn, Benton, West, McCaslin, Wood, Prince, Roach, McDonald, Hale, Sellar, Anderson, Deccio, Johnson, Oke, Morton, Zarelli, Swecker, Hochstatter, Schow and Strannigan).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All property in this state is subject to the property tax each year based on the property's value un-

less a specific exemption is provided by law. The state Constitution defines "property" for tax purposes as "everything, whether tangible or intangible, subject to ownership."

Real property lying wholly within individual county boundaries is valued by the county assessor. Inter-county, interstate, and foreign utility companies are valued by the Department of Revenue. The value of personal property is reported each year by taxpayers to the county assessors.

There are three common approaches used in valuing real property: the sales approach; the cost approach; and the income approach. One, two, or all three methods may be applied to a given parcel. The sales approach is mainly used for residences, the cost approach is used for manufacturing and similar facilities, and the income approach is used principally for commercial property including apartment houses.

A major exemption from the property tax exists for some intangible property. Intangible property is property that has no physical substance and is not susceptible to being perceived by the senses. Exempt intangibles include: money, mortgages, notes, accounts, certificates of deposit, tax certificates, judgments, government bonds and warrants, stocks and shares of private corporations, private nongovernmental personal service contracts, and private nongovernmental athletic or sports franchises. Other types of intangible property are taxable, such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, non-compete agreements, customer lists, and business goodwill.

For property assessed by the Department of Revenue, standard appraisal practices tend to capture intangible value. For locally assessed property, intangible value, when it exists, may be included in the real property value when the income approach or the comparable sales approach is used. Intangible value will also be included when businesses expressly report intangible personal property on their personal property affidavits.

While intangible "attributes," such as location, zoning, or view, often affect the market value of real or tangible personal property, these attributes are not intangible "property" but are merely characteristics that buyers and sellers use in determining the market value of property. In contrast, intangible personal property can be bought and sold completely independently of other property. Therefore, an exemption of all intangibles would not include the exemption of these attributes. For example, under an exemption for intangibles, a business may no longer pay taxes on the value of its trademarks but would continue to pay taxes on the value of having a good business location.

In the late 1980s, the Department of Revenue was sued by Burlington Northern on the grounds that the company was being discriminated against. The taxpayer believed that local values did not include intangible value because counties often rely on the cost approach for valuations. The court stated that the cost approach has a factor for en-

trepreneurial profit which does incorporate intangibles. The court also found that appraisal methods used by county assessors sometimes captured intangible assets of local businesses but that often intangible assets were overlooked. The remedy for the under-assessment of local property due to this oversight was through an adjustment of the assessment ratio. The taxpayer was entitled to relief only if the under-assessment caused its assessment ratio to be higher than that of locally assessed property.

As a result, the department, as part of the state school levy equalization process, decreased the assessment ratios for many counties because of the failure to tax intangibles. This caused the state portion of the property tax to increase in those counties. At the same time, Congress allowed "goodwill" to be listed as a depreciable asset for federal income tax purposes. This made it more likely that businesses would show goodwill on their books and that assessors would tend to tax it. The combination of falling ratios and the ability to find goodwill on the books of businesses led some assessors to assess the value of previously unassessed intangible property. Businesses began to complain about the assessment (and taxation) of previously untaxed property. Businesses also feared that assessors would begin to further tax these and other intangibles.

The department responded with a letter in January 1996 advising county assessors not to ask for a separate reporting of intangibles on the personal property affidavit as these values would often already be included in the market value of real property. This had the effect of eliminating the possibility that these businesses could be double taxed. However, intangible property remained taxable. In 1996, bills were introduced in the Legislature to exempt all intangibles from taxation, but none of these bills were enacted by the Legislature.

**Summary:** All intangible personal property is exempt from property tax. Intangible property includes, but is not limited to, the items exempt under current law and items such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, core deposits of financial institutions, non-compete agreements, clientele, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, or integrity of a business. Intangible property does not include characteristics or attributes such as zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, and the availability of a skilled work force.

The exemption is not intended to preclude the use of generally accepted appraisal practices in the valuation of real and tangible personal property. Consideration of licenses, permits, and franchises granted by a government agency that affect the use of the property may be considered in applying generally accepted appraisal practices.

By December 1, 2000, the Department of Revenue must submit a report to the House Finance Committee, the Senate Ways and Means Committee, and the office of the Governor on tax shifts, tax losses, and any litigation resulting from the act.

These provisions are effective for taxes levied for collection in 1999 and thereafter.

The act is not intended to incorporate any other state's statutory or case law.

**Votes on Final Passage:**

Senate	28	21	
House	71	27	(House amended)
Senate	30	19	(Senate concurred)

**Effective:** July 27, 1997

**SB 5287**

C 36 L 97

Repealing Title 45 RCW concerning townships.

By Senators Horn, McCaslin, Wood, Prince and Hale.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Townships in the United States evolved from the New England "town" which is a local general purpose government typified by the exercise of legislative authority by the entire citizenry acting at annual town meetings. The New England town and subsequent "townships" in the midwest historically had jurisdiction over roads, poor relief, and, in many cases, education. Towns and townships also sometimes had responsibility for other police powers, but, for the most part, townships have existed in rural areas with limited demand for government services.

The Washington State Constitution permits counties to adopt a township organization and grants townships general powers to enforce local police, sanitary and other regulations not in conflict with general laws. A statutory scheme governing the operation of townships was adopted by the Legislature in 1895 and has been only slightly modified since that time.

A county may divide into townships upon voter approval. When establishing townships, the entire unincorporated area of the county must be included. At an annual town meeting, the residents elect one of three supervisors, and in odd-numbered years, a clerk, treasurer, justice of the peace and constable. At town meetings, the electors may, among other things, determine the number of poundmasters, determine the time and manner in which dogs may be permitted to go at large, make provisions for snow removal, approve the purchase of land for a town cemetery, create a river improvement fund and regulate hawkers, theatricals and ferris wheels. Town supervisors serve as "fence viewers."

Spokane and Whatcom counties previously operated with townships, but disorganized them. Currently, no county has a township organization.

**Summary:** Title 45, townships, is repealed.

**Votes on Final Passage:**

Senate	46	0
House	97	0

**Effective:** July 27, 1997

**SSB 5290**

C 75 L 97

Providing that the liquor control board construction and maintenance account retain its earnings.

By Senate Committee on Ways & Means (originally sponsored by Senators West and Spanel; by request of Liquor Control Board).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** In the 1995 legislative session, the Liquor Control Board was given authority to finance a new distribution center through Certificates of Participation, an alternative financing method. In order to pay for the debt service and other costs related to the construction of the new distribution center, the Liquor Control Board imposed an additional markup on distilled spirits sold in state liquor stores and agencies on July 1, 1996. This markup has been deposited into the liquor revolving account.

**Summary:** The Liquor Control Board construction and maintenance account is created in the state treasury. The Liquor Control Board must deposit the additional markup into the account. The account is to be used for the construction and maintenance of the new distribution center. The State Treasurer must transfer the revenue generated from the additional markup imposed on July 1, 1996 into the Liquor Control Board construction and maintenance account.

**Votes on Final Passage:**

Senate	48	1
House	95	0

**Effective:** April 19, 1997

**SSB 5295**

C 352 L 97

Revising district court procedures regarding small claims and appeals.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Goings, Kohl, Wojahn, Zarelli, Schow and Patterson).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Over the years the actual practice in small claims proceedings in district courts has departed somewhat from the statutory language; certain provisions have become obsolete and archaic; or outdated language has led to ambiguities and confusion. Revisions and an update to small claims procedures is thought to be necessary so that small claims courts will continue to provide a simple, accessible, expedited process used by lay persons to resolve small disputes.

**Summary:** The court's ability to hold a trial on a day other than the first appearance of the parties, and its ability to encourage mediation and other alternative dispute resolution methods is clarified.

Service of small claims-related, pretrial information is allowed, and a timeliness of service requirement (10 days prior to first appearance) is added. Service of small claims process with other process is forbidden.

An attorney or legal paraprofessional may advise, but not appear for or participate with, a party in small claims court without the permission of the court, except in the case of a plaintiff corporation represented by an attorney or legal paraprofessional which is transferred to small claims court by a defendant.

The bar to an appeal from a judgment of a small claims court is raised from \$100 to \$250. A method to set aside default judgments using the district court civil rules is provided.

Archaic or outdated language in several sections is revised or deleted.

**Votes on Final Passage:**

Senate	46	1	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 27, 1997

**SB 5299**

C 199 L 97

Requiring that a petition of review be served upon local government.

By Senators Swecker, Fraser and Oke.

Senate Committee on Agriculture & Environment  
House Committee on Government Reform & Land Use

**Background:** The Shoreline Management Act establishes a cooperative program of shoreline management between local governments and the state. Under the act, counties and cities are required to develop comprehensive shoreline use plans and development regulations. A shoreline substantial development permit is required for development in shorelines of the state.

The Shorelines Hearings Board is a quasi-judicial body established within the Environmental Hearings Office. The Shorelines Hearings Board determines appeals of Department of Ecology shoreline rules and appeals of local government decisions on shoreline permits. A petition for review of a local government shoreline decision must be filed with the Shorelines Hearings Board within 21 days of the decision, and copies must be served on the Department of Ecology and the Office of the Attorney General.

**Summary:** Copies of the petition for review of a local government shoreline decision must be served on the local government, in addition to the Department of Ecology and the Attorney General.

**Votes on Final Passage:**

Senate	47	0
House	96	1

**Effective:** July 27, 1997

**SSB 5308**

C 27 L 97

Regulating electronic signatures.

By Senate Committee on Energy & Utilities (originally sponsored by Senators Horn, Finkbeiner, Franklin, Fraser and Winsley; by request of Secretary of State).

Senate Committee on Energy & Utilities  
House Committee on Commerce & Labor

**Background:** The 1996 Legislature enacted the "Washington Electronic Authentication Act," a measure that sets the initial guidelines for regulating electronic "digital signatures." These digital signatures are used to authenticate an electronic transmission.

Digital signatures often involve usage of dual key encryption that uses two digital codes, referred to as "keys." One key is secret, kept confidential by the user. The other key is a public key, more widely known. If a person wants to digitally sign a message, he or she may use the secret key to create a signature. The recipient then uses the sender's public key to verify the source of the message. The public key will be listed on a certificate that includes additional information about the user and limitations relevant to the transactions. The certificate will be issued by a certification authority that will be responsible for verifying the status of the user.

The existing legislation is slated to become effective on January 1, 1998. The Office of the Secretary of State was given the responsibility of implementing and administering the legislation. A working group convened by the Secretary of State has met regularly to make implementation recommendations, including changes to the original act.

**Summary:** The Secretary of State (Secretary) is given the responsibility to adopt rules pertaining to when a certificate may be suspended or revoked. Provisions are added specifying when the Secretary may suspend or revoke a certification authority's license to issue certificates.

Licenses are valid for a period of one year, except if the Secretary by rule allows for longer duration. The Secretary is required to provide for a system of renewing licenses for issuing certificates.

Certification authorities are required to obtain a compliance audit at least once per year. Language is removed that specifies levels of compliance and exempts some certification authorities from being audited. Qualifications are listed for auditors that verify compliance audits.

Monetary penalty limits imposed by the Secretary on licensed certification authorities are raised to \$10,000 per incident.

Certification authorities are required to use trustworthy systems and the Secretary may specify by rule conditions on the system. When issuing certificates, the requirements are expanded to include that the certificate must provide information to identify repositories in which any revocation will be listed. In an emergency, the Secretary may suspend a certificate for a period not to exceed 96 hours.

Provisions are added specifying that the Department of Information Services may become a licensed certification authority. Cities and counties may become licensed certification authorities for purposes of providing services to local governments if authorized by ordinance.

Provisions are added relating to the suspension of certificates, requirements on a licensed certification authority if it discontinues providing service, liability and damages, and relevant factors to be considered when evaluating reliance upon a certificate. Language is added specifying when a digital signature meets the requirements if a rule of law requires a signature, and when a digital signature meets requirements pertaining to notaries and property transactions. Persons may not refuse to honor certain court documents that are digitally signed.

The Secretary is given authority to adopt rules beginning July 27, 1997, but the rules may not become effective prior to January 1, 1998.

**Votes on Final Passage:**

Senate	48	1
House	97	0

**Effective:** July 27, 1997 (Sections 24 and 28)  
January 1, 1998

## 2SSB 5313

C 140 L 97

Establishing the advanced environmental mitigation revolving fund.

By Senate Committee on Ways & Means (originally sponsored by Senators Wood, Haugen and Prince; by request of Department of Transportation).

Senate Committee on Transportation  
Senate Committee on Ways & Means  
House Committee on Transportation Policy & Budget

**Background:** During the design and construction of Department of Transportation (DOT) projects, efforts are made to avoid or minimize adverse environmental impacts. When adverse impacts are unavoidable, they are mitigated during transportation project construction, within the project's boundaries (i.e., on-site). For example, when a transportation project requires the filling of a wetland, a new wetland is constructed on-site.

Many times, on-site conditions are not favorable for effective mitigation, particularly when transportation project timelines fail to allow for ideal site selection or development. However, other off-site locations within the watershed may be more suitable or preferable for mitigation. A "watershed approach" to environmental mitigation, which allows the selection of sites within an entire water resource inventory area where a particular transportation project is located, promotes enhanced, off-site mitigation.

Opportunities to share mitigation sites with other jurisdictions are lost since environmental mitigation is tied directly to project funds. Development of prospective, cost-effective, multi-jurisdictional environmental facilities is not possible when funds are appropriated for specific projects.

Where feasible, DOT seeks to finance the acquisition and development of environmental mitigation sites prior to construction of specific transportation projects. To that end, DOT seeks to establish an advanced environmental mitigation revolving fund, patterned after DOT's right-of-way revolving account. Using this fund, environmental mitigation sites, needed in the foreseeable future, would be purchased and developed with monies from the revolving fund. Then, when construction of a transportation project requiring use of the mitigation site begins, the fund would be replenished using dollars appropriated for the subject project.

**Summary:** The environmental mitigation revolving fund, which is not tied to programmed transportation projects, is created to finance the acquisition and development of environmental mitigation sites in advance of transportation project design and construction. To qualify for advanced environmental mitigation, DOT projects must be approved by the Transportation Commission as part of the state's

## SSB 5318

six-year plan or be included in the state highway system plan. The fund retains 80 percent of its interest earnings.

Advanced environmental mitigation, including the acquisition and development of mitigation sites, may be conducted in partnership with federal, state, or local government agencies, tribal governments, interest groups, or private parties.

When DOT, or any of its transportation partners, proceeds with the construction of a transportation project that will use an advanced environmental mitigation site, the advanced environmental mitigation revolving fund must be reimbursed with monies appropriated for the use of the site.

Every two years, DOT must report to the Legislative Transportation Committee and the Office of Financial Management regarding: (1) which advanced environmental mitigation sites were purchased and why; (2) what expenditures were made for the parcels; and (3) estimated savings.

### Votes on Final Passage:

Senate	39	8
House	94	4

Effective: July 27, 1997

## SSB 5318

C 255 L 97

Preserving writs of restitution when partial payment is accepted.

By Senate Committee on Law & Justice (originally sponsored by Senators Haugen, Winsley and Goings).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** When a landlord is evicting a tenant and prevails in court, the court will issue a writ of restitution and judgment for money owed the landlord. If prior to the execution of the writ, the tenant pays the full amount of judgment, the sheriff will not enforce the writ. In some counties, the sheriff will not enforce the writ and return it to the court, if the landlord has accepted any money toward the judgment.

It is felt that a landlord who is owed money by a tenant should not be penalized for accepting a partial payment of that judgment. However, it is also felt that a tenant should not be tricked into making a partial payment on the basis that the payment will stop the eviction.

**Summary:** A writ of restitution is not invalidated by the acceptance by the landlord of a partial payment of the judgment against the tenant, unless pursuant to a written agreement signed by both parties. If there is a written agreement, the tenant must provide a copy to the sheriff. Upon receipt of the agreement, the sheriff must stop the eviction, unless ordered to do otherwise by the court.

The writ of restitution and notice accompanying the writ must state in 12-point bold face type, all capitals, that partial payment will not stop or postpone the eviction unless there is a written agreement.

### Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 1997

## SSB 5322

C 37 L 97

Removing regulatory barriers to the provision of oral health care services to rural, remote, and underserved populations.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Thibaudeau and Kohl).

Senate Committee on Health & Long-Term Care  
House Committee on Health Care

**Background:** Currently, dental hygienists perform duties within their scope of practice under the supervision of a dentist. Current restrictions in statute prohibit more than two dental hygienists to practice under the supervision of one dentist.

Dental hygienists may perform specific duties without dental supervision under specific conditions defined in statute. One of these conditions is that the services be provided in local public health facilities. Practitioners have expressed concern that settings which fit into this category should be better defined.

Dental hygienists who come to Washington State from another state may receive a temporary license for 18 months without examination while they fulfill the requirements of licensure in this state. This program of offering temporary licensure terminates on January 1, 1998, unless there is a change in statute.

**Summary:** The current ratio of dentists to dental hygienists permitted in an office setting is eliminated.

Public health facilities are clarified under the independent practice section of the hygiene statute to include state or federally-funded community and migrant health centers, and tribal clinics.

The January 1, 1998 termination date for the dental hygienist temporary licensure program is removed.

### Votes on Final Passage:

Senate	49	0
House	95	1

Effective: July 27, 1997

**SSB 5325**  
**FULL VETO**

Allowing counties to have certain lands transferred from the state back to the county.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Hargrove, Morton, Stevens, Rossi, Snyder and Loveland).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources

**Background:** The Forest Board Transfer Lands consist of approximately 530,000 acres of state forest lands. The lands were conveyed to the state by 21 counties during the 1920s, 1930s and early 1940s. The counties originally acquired these lands through tax foreclosure. The revenue from the lands is generated by timber sales and is distributed back to the counties.

The Forest Board Transfer Lands are administered by the Department of Natural Resources and are included in the overall sustained yield calculations that the department uses. However, the Forest Board Transfer Lands do not have the same legal status as those lands that were granted to the state by the United States Congress to support beneficiaries, such as the public schools and the universities.

Some counties have requested that the lands that they transferred to the department be transferred back to the counties for timber management purposes. Existing statutes allow transfer of parts of these lands back for specific purposes, such as the development of county parks.

At the present time, one county, Grays Harbor County, manages its own county forest lands employing a forester and working under county regulatory authority, as well as the authority of the state Forest Practices Act.

**Summary:** The county legislative authority in counties with a population less than 1.5 million persons may apply to the Board of Natural Resources to transfer forest lands back to the county until the year 2017. The Board of Natural Resources must direct the Department of Natural Resources to reconvey the forest lands to the requesting county. Once the land has been reconveyed to a county, it must be kept in forest status and may not be sold. The lands must be managed to maximize the financial benefit to the counties.

All data and documents concerning the lands are transferred to the counties by the department. The department is required to stop all proposed sale activity on the state Forest Board lands when the transfer takes place. Reconveyance of the lands is done by a quitclaim deed and the term of the reconveyance must be for not less than 20 years. Revenues from the land are dispersed as currently required by law, unless the distribution formula is changed by the Washington State Legislature. The county's administrative authority may charge a 20 percent management fee, and reporting requirements are included for the

use of management fees. Existing contracts for the state Forest Board Transfer Lands are honored until the completion of the contract.

Existing memorandums of agreement, landscape plans, habitat conservation plans and similar agreements may be continued at the discretion of the respective county. Public access to the land must be allowed, subject to the discretion of the local legislative authority. Lands are open for public recreation consistent with timber management goals. Lands that have recreational uses funded by the Interagency Committee for Outdoor Recreation or other similar source must remain in recreational use as directed by agreement, contract, rule or statute.

Counties may contract with the Department of Natural Resources for management. County employees managing the lands must be trained to the same standards as the department employees.

Counties that exercise their option of reconveyance must make an annual report to the Legislature, by February 1 each year, concerning activities on those lands. The report must include acres harvested, the volume of harvest from those acres, the number of acres replanted, pre-commercially thinned acres and the annual cost on a per acre basis.

**Votes on Final Passage:**

Senate	32	17
House	59	36

**VETO MESSAGE ON SB 5325-S**

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5325 entitled:

"AN ACT Relating to transfer of state forest lands back to counties;"

Substitute Senate Bill No. 5325 would allow all counties but King to file applications with the Board of Natural Resources for the transfer of Forest Board Transfer lands to the requesting counties. Upon receiving the application, the Board would be required to transfer the lands. The bill specifies the conditions regarding how such lands are to be managed by those counties receiving them.

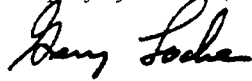
In authorizing a shift in management from the Department of Natural Resources (DNR) to the requesting counties, this bill would represent a fundamental policy change at the expense of non-county beneficiaries of state trust lands.

It has been a long-standing policy of the DNR to consolidate state forest lands to obtain economies of scale. By allowing counties to take over these lands, SSB 5325 would make it more expensive to manage the remaining state trust lands and would result in less revenue for other trust beneficiaries including the common schools. In addition, the bill would significantly reduce the DNR's fire fighting capability, imposing extra costs on local governments and risks to local communities.

This bill would not permit the inclusion of the lands transferred to counties in the recently signed Habitat Conservation Plan (HCP), without the agreement of the counties. To remove major portions of land from the state trust management system would place additional harvest restrictions on the remaining lands and reduce revenues for their beneficiaries.

For these reasons, I have vetoed Substitute Senate Bill No. 5325 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SB 5326**  
C 200 L 97

Removing requirements relating to carrying firearms unloaded and encased in an opaque case or wrapper.

By Senators Hargrove, Zarelli, Loveland, Snyder, Schow, Rasmussen and Benton.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** In 1994, the Legislature enacted a general prohibition against the open carrying of any firearm. With numerous exceptions, no one may carry a firearm unless the firearm is unloaded and enclosed in an opaque case or secure wrapper. Exceptions apply while on one's own property or in an area where shooting is not prohibited, while engaging in and traveling to and from activities such as hunting, trapping, camping, horseback riding, firearms' training, target practice, and firearms' competition. In addition, there are exceptions for persons who are licensed to carry concealed pistols, unloaded firearms secured in place in a vehicle, and carrying firearms to and from vehicles for the purpose of repair.

Certain other individuals are expressly exempt from the requirement that a firearm be carried in an opaque case or secure wrapper. These include: law enforcement personnel; military personnel while on duty; persons engaged in the business of manufacturing, repairing, or dealing in firearms while in the course of business; members of target shooting clubs or collectors clubs while shooting or exhibiting firearms or while en route to or from their practice or exhibition places; and licensed private security guards or private detectives, while en route to or on duty.

A city, town, or county may enact an ordinance exempting itself from this "case and carry" rule.

**Summary:** The general requirement that a firearm be carried unloaded and in an opaque case or secure wrapper is repealed.

**Votes on Final Passage:**

Senate 26 23  
House 62 35

**Effective:** July 27, 1997

**SSB 5327**  
C 425 L 97

Creating a habitat incentive program through the department of fish and wildlife.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Hargrove, Morton, Loveland, Rossi, Stevens, Snyder and Oke).

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources  
House Committee on Appropriations

**Background:** Landowners who make improvements to fish habitat may face changing regulatory requirements over time as a result of the habitat improvements.

Landowners who make investments in fish habitat improvements desire not to be penalized by increased regulation of hydraulic permits or forest practice permits that result from the habitat improvements.

**Summary:** Private landowners may participate in a single habitat incentives agreement for food fish or game fish habitat improvement with the Department of Fish and Wildlife and the Department of Natural Resources if they own less than 1,000 acres or less than 10,000 acres for multiple agreements. The departments are not obligated to enter agreements unless they protect fish or wildlife habitat. Landowners who enter agreements with the departments are subject to hydraulic permit and forest practice regulations that were in effect prior to the time habitat improvements were made. The agreements are specified in writing and are not transferrable to subsequent owners. Federally recognized Indian tribes, regional fisheries enhancement groups, timber, fish and wildlife cooperators and other interested parties are involved with the departments in developing the program. The program begins in January 1998 after the cooperators have reached agreement on the operation of the program.

**Appropriation:** \$48,500 per biennium.

**Votes on Final Passage:**

Senate 48 0  
House 98 0 (House amended)  
Senate (Senate refused to concur)

Conference Committee

House 94 0  
Senate 44 1

**Effective:** July 27, 1997



**SB 5330**

C 38 L 97

Allowing another type of golfing sweepstakes.

By Senators Sellar, Snyder and McCaslin.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Under current law, bona fide charitable or nonprofit organizations are permitted to conduct golfing sweepstakes involving the wagering of money only when the outcome of the sweepstakes depends on the scores or playing abilities of individuals or teams of individuals. Only members of the sponsoring organization may participate in such events, which must be conducted in a manner specified under current law.

The auctioning of players or teams of players in a golfing contest, with the person placing the highest bid on the winning player or team receiving the proceeds from the auction, is prohibited under current law.

**Summary:** The auctioning of players or teams of players in a golfing contest, with the person placing the highest bid on the winning player or team receiving the proceeds from the auction, is an authorized method for conducting a golfing sweepstakes.

**Votes on Final Passage:**

Senate	34	13
House	78	19

**Effective:** July 27, 1997

**SSB 5334**

C 300 L 97

Crediting certain insurance premium taxes.

By Senate Committee on Ways & Means (originally sponsored by Senators Winsley, Heavey, Finkbeiner, Benton, Rasmussen, Hale and West).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** Insurance guaranty associations are statutorily created organizations comprised of all insurance companies authorized to write a particular type of insurance in that state. The associations typically are governed by a board of directors made up of representatives of the insurance industry, the state insurance regulator, and sometimes the general public. The associations are statutorily required to protect policyholders when an insurance company becomes insolvent or a court orders liquidation of the company. Generally, there are statutory limits on the amount of protection provided by insurance guaranty associations. Insurance guaranty associations assess member insurance companies after an insolvency occurs to raise funds to protect policyholders adversely affected

by the insolvency. The assessment in any one year is limited by statute, usually 2 percent of premiums.

Washington has two insurance guaranty associations. The Washington Insurance Guaranty Association protects property and casualty policyholders. The Washington Life and Disability Insurance Guaranty Association protects life and disability insurance policyholders. When an insolvency or liquidation occurs, the member insurance companies of the affected guaranty association are assessed based on their percentage of Washington premiums. The assessment is limited to 2 percent of a member company's Washington premiums. An insurance company is exempt from paying assessments if the assessments would make the company insolvent.

Insurance premiums are exempt from the state business and occupation tax and are subject to an insurance premiums tax instead. In 1993, a credit against this tax for assessments paid to guaranty associations by member insurance companies was removed. The credit was taken over a five-year period.

**Summary:** Insurance companies that pay an assessment to the Washington Insurance Guaranty Association or the Washington Life and Disability Insurance Guaranty Association receive a tax credit against premium taxes equal to 100 percent of the assessment. The tax credit is to be taken over five years. Credits are limited to assessments that are for insurance companies that become insolvent after the effective date of the act.

**Votes on Final Passage:**

Senate	38	9	
House	76	21	(House amended)
Senate	37	9	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5336****PARTIAL VETO**

C 361 L 97

Clarifying and harmonizing provisions affecting cities and towns.

By Senate Committee on Government Operations (originally sponsored by Senators Horn and Haugen).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Several provisions in statutes affecting cities and towns require clarification.

**Summary:** Municipalities may contract with licensed collection agencies to collect public debts. The term "debt" is clarified to include fees, penalties, reasonable costs, and assessments, as well as fines and other debts.

Specific municipalities are prohibited from incurring a total indebtedness on a contract in excess of a certain value of the taxable property in the municipality. If the

contract is in excess of that amount, a proposition must be submitted to the voters as to whether the contract should be entered into by the municipality.

The cost of an insurance policy to a public agency is not considered as additional compensation to various elected officials. Added to the list of officials are those elected under statutes pertaining to first and second class cities, towns, noncharter code cities and code cities with a mayor-council plan, and code cities with a council-manager plan.

In a town, all appointive officers and employees are subject to any relevant civil service law or regulation.

The council of a city or town may call an election on the proposition of disincorporation without regard to population limits.

Clarification is made about the appropriate statutes dealing with civil infractions committed by persons carrying a pistol without a concealed pistol license.

When a city with a population of under 2,500 is reclassifying as an optional municipal code city, it may choose to maintain a seven-member council.

A person must be a resident and registered voter in a second class city before he or she may hold an elective office in that city.

Cities and towns may annex territory beyond an urban growth area only if (a) the territory is annexed for municipal purposes and (b) the territory is owned by the city or town.

Unique requirements for a second class city to issue franchises are repealed.

The requirement is repealed for the discharge of an employee or appointed officer of a city with a commission form of government if the employee or officer is acting inappropriately with regard to the election of a candidate for the city commission.

A redundant statute dealing with a metropolitan park district is repealed.

**Votes on Final Passage:**

Senate	48	0	
House	94	3	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

**Conference Committee**

House	65	32
Senate	39	7

**Effective:** July 27, 1997

**Partial Veto Summary:** A number of sections were vetoed because they were covered in other bills. The sections allowing a city to annex territory it owns outside of an urban growth area were vetoed because they go well beyond the changes to annexation laws recommended by the Land Use Study Commission.

**VETO MESSAGE ON SB 5336-S**

May 14, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 5, 18, 19, 20, 21, and 24, Substitute Senate Bill No. 5336 entitled:

"AN ACT Relating to clarifying and harmonizing provisions affecting cities and towns;"

Substitute Senate Bill No. 5336 is primarily a technical bill relating to the internal operations of cities and towns. It deletes some archaic statutes and references, aligns some other statutes to current practice, and makes others more usable.

Section 1 of this bill would provide that the reasonable costs involved in the collection of debts through the use of a collection agency by a governmental entity are reasonable costs that may be added to, and included in the debt to be paid by the debtor. I support this concept, however, I find the language in Substitute Senate Bill 5827, dealing with this same subject, preferable because it offers more precision regarding what can be considered reasonable costs.

Section 5 would correct a reference regarding civil infractions for violation of concealed weapons laws. This reference was also corrected in Senate Bill No. 5326 which I have already signed into law, therefore this section is duplicative.

Sections 18 through 21 of this bill would allow cities, code cities, and towns to unilaterally annex territory located in a county, beyond the urban growth area, if the area to be annexed is owned by the city or town and the annexation is for a municipal purpose. The authority that would be granted by these sections goes well beyond the changes to annexation laws recommended by the Land Use Study Commission.

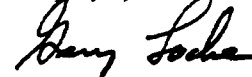
These sections could create a very large loophole in our growth management laws. "Municipal purpose." is not clearly defined in the bill. Without a definition of "municipal purpose", the annexation authority could be exercised much too broadly. Nothing in the bill requires a city to maintain a use of the annexed property that would be appropriate outside of an urban growth area, after an annexation is completed. Also, over-broad annexation authority would erode the financial base of some of our counties.

Section 24 is an emergency clause. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For these reasons, I have vetoed sections 1, 5, 18, 19, 20, 21 and 24 of Substitute Senate Bill No. 5336.

With the exception of sections 1, 5, 18, 19, 20, 21 and 24, Substitute Senate Bill No. 5336 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5337**

C 256 L 97

Extending less than county-wide port districts.

By Senate Committee on Government Operations (originally sponsored by Senators Stevens, Deccio and Swecker).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** In 1992, for the third time since port districts were authorized, legislation was enacted allowing less than countywide port districts to be created. Presently, a less than countywide port district with an assessed valuation of at least \$75 million may be created in a county that already has a less than countywide port district located within its boundaries. This authorization expires on July 1, 1997.

**Summary:** The expiration date beyond which a less than countywide port district may not be formed is eliminated.

**Votes on Final Passage:**

Senate	38	9	
House	92	5	(House amended)
Senate	30	14	(Senate concurred)

**Effective:** May 5, 1997

**SB 5338**

C 39 L 97

Allowing restricted use of spirituous liquor at no charge.

By Senators Horn, Heavey and Schow.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Under current law, a brewer, winery, or beer or wine wholesaler is permitted to furnish samples of beer or wine to an authorized licensee for the purposes of negotiating a sale. Such entities are also allowed to provide free samples of beer or wine to licensees and their employees for the purposes of instructing them on the history, nature, values, and characteristics of beer or wine. In addition, such entities are permitted to conduct educational activities for and provide free samples of liquor to customers of retail liquor licensees.

Current law prohibits distillers from conducting any of these activities and providing free samples of spirituous liquors in the course of such activities.

**Summary:** Distillers are permitted to furnish samples of spirituous liquor to authorized licensees and/or their employees in the course of conducting the following activities: for the purposes of negotiating a sale; or for the purposes of instructing licensees and their employees regarding the history, nature, values, and characteristics of spirituous liquor. In addition, distillers are also permitted to

conduct educational activities for and provide free samples of liquor to customers of retail liquor licensees.

**Votes on Final Passage:**

Senate	39	8
House	88	9

**Effective:** July 27, 1997

**SB 5340**

C 278 L 97

Changing probation provisions for certificated educational employees.

By Senators Hochstatter, Johnson, Zarelli, Oke and Finkbeiner.

Senate Committee on Education  
House Committee on Education

**Background:** School principals are responsible for evaluating the performance of classroom teachers and certificated support personnel at least twice each year. Work judged to be unsatisfactory by district performance standards is grounds for probation. Principals may delegate these evaluations to another individual. The evaluator may ask another certificated employee to evaluate and aid the probationer to improve his or her work deficiency.

Under current law, district superintendents must notify employees of their probation by February 1 and such probation cannot extend beyond May 1. The probation notice must be specific as to the areas of work deficiency, and a reasonable, suggested program for improvement must be offered. Lack of necessary performance improvements thereafter is probable cause and grounds for discharge, or for not renewing an employee's contract.

**Summary:** The time frame governing the probation of a certificated school employee is modified. Limits are placed on the transfer of assignment during the probationary period. Options are created to reassign probationary employees for lack of subsequent performance improvements.

An employee may be placed on probation any time after October 15 for failure to meet district employee performance standards. The probation is limited to 60 days. During the period of probation, the employee may not transfer assignments and must remain under the supervision of the original evaluator. Lack of necessary performance improvements by a certificated staff member during the 60 days of probation is probable cause and grounds for discharge, or for not renewing the employee's contract.

If the probationary employee does not produce the necessary performance improvements, detailed in the initial notice, then after 60 days has expired, the district may reassign that employee for the remainder of the school year. Reassignments cannot displace another school employee nor should they adversely affect the compensation or

## SSB 5341

benefits of the reassigned, nonperforming employee. If re-assignment is not possible, a district may choose to place the nonperforming employee on paid leave for the balance of the contract term.

### Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 27, 1997

## SSB 5341

C 257 L 97

Revising authority of the Washington economic development authority to finance projects.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Roach, Sheldon and Rasmussen).

Senate Committee on Commerce & Labor  
House Committee on Trade & Economic Development

**Background:** In 1989 the Legislature created the Washington Economic Development Finance Authority (WEDFA) to help meet the capital needs of small and medium-sized businesses.

WEDFA is authorized to issue nonrecourse revenue bonds to carry out its programs. The bonds may be issued on either a tax-exempt or taxable basis. These bonds are not obligations of the state of Washington. Under current law, WEDFA may not issue bonds for more than five economic development projects per year.

In 1995, WEDFA initiated a program to help businesses finance manufacturing and processing equipment. Under this program, WEDFA may issue small industrial revenue bonds to businesses for the purchase of new equipment. These small bond issuances are for manufacturing or processing projects with individual total project costs of less than \$1 million, and are limited to ten per year.

**Summary:** The limitation on WEDFA's financing of five economic development activities per year is removed. The limitation on ten small issue bonds per year is removed.

WEDFA is required to develop an outreach and marketing plan to increase its financial services to distressed counties.

### Votes on Final Passage:

Senate	47	1	
House	98	0	(House amended)
Senate	43	1	(Senate concurred)

**Effective:** July 27, 1997

## SB 5343

C 201 L 97

Defining the location of a retail sale by a towing service operator as the place of business.

By Senators Sellar and Prentice.

Senate Committee on Ways & Means

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. These range from 0.5 percent to 1.7 percent. The total rate is between 7.0 percent and 8.2 percent, depending on the location.

For tax purposes, a retail sale is deemed to occur at the place where the service is primarily performed.

**Summary:** For tow truck services, the place where the retail sale is deemed to occur is defined as the place of business of the operator of the tow truck service.

### Votes on Final Passage:

Senate	43	0	
House	97	0	

**Effective:** July 27, 1997

## SB 5353

C 301 L 97

Limiting the tax exemption for motor vehicles.

By Senators Benton, Wood, Brown, Rossi, Stevens and Winsley.

Senate Committee on Ways & Means

**Background:** Use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out of state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue.

Under current law, new residents to the state are exempt from paying use tax on household goods, personal effects and private automobiles.

**Summary:** The use tax exemption is extended from automobiles to include other vehicles such as motorcycles and mopeds.

### Votes on Final Passage:

Senate	45	0	
House	95	2	

**Effective:** July 27, 1997

**ESB 5354**

C 279 L 97

Removing the commissioner of public lands and adding the secretary of state to the membership of the capitol committee.

By Senators Benton, Anderson, Rossi and Rasmussen.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The two administrative committees of state government are the State Finance Committee and the State Capitol Committee. The State Capitol Committee may erect permanent buildings, temporary buildings, excavate for such buildings, and make other temporary or permanent improvements to the capitol grounds belonging to the state and known as the "Sylvester site" or "Capitol place" in Olympia.

The committee consists of the Governor or the Governor's designee, the Lieutenant Governor, and the Commissioner of Public Lands, who is the secretary of the committee.

The Capitol Campus Design Advisory Committee is an advisory group to the Capitol Committee and the Director of the Department of General Administration. It reviews programs, planning, design and landscaping of state capitol campus facilities. The Secretary of State is a member of this advisory committee.

**Summary:** The Secretary of State is added as a member of the State Capitol Committee.

**Votes on Final Passage:**

Senate	47	1	
House	94	3	(House amended)
Senate			(Ruled beyond scope)
House	87	0	(House receded)

**Effective:** July 27, 1997

**SSB 5359**

C 302 L 97

Clarifying the exemption from sales and use taxation of the materials used by small companies in the design and development of aircraft parts, auxiliary equipment, and aircraft modification.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Fraser, West and Winsley).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local

sales taxes apply. These range from 0.5 percent to 1.7 percent. The total rate is between 7.0 percent and 8.2 percent, depending on the location.

Exempt from these taxes are purchases by businesses for resale and purchases of components and ingredients that become part of another product for sale.

Purchases of components and ingredients that are incorporated into prototypes are not exempt from sales and use tax because the prototype itself is generally not for sale.

**Summary:** An existing sales and use tax exemption is clarified for materials used in the design and development of aircraft parts, auxiliary aircraft equipment or aircraft modification for businesses with annual gross sales of less than \$20 million.

The exemption is capped at \$100,000 in state and local taxes per taxpayer per year.

**Votes on Final Passage:**

Senate	47	0	
House	97	0	(House amended)
Senate	43	1	(Senate concurred)

**Effective:** July 1, 1997

**SSB 5360**

C 76 L 97

Providing commercial salmon fishers with a license renewal process when they opt to not renew for a season.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Hargrove, Anderson, Spanel, Swecker, Haugen, Oke, Snyder and Kline).

Senate Committee on Natural Resources  
Senate Committee on Ways & Means  
House Committee on Natural Resources

**Background:** Currently, no new commercial salmon fishing licenses may be issued. A person may renew an existing license only if the person held a license during the previous year or acquired a license by transfer from a prior license holder. The deadline for renewal is December 31 of the license year.

The prior license requirement can be waived if the department does not allow any opportunity for a commercial fishery or if, during the calendar year, no harvest opportunity occurs in the corresponding fishery. License fees are refunded if the department does not allow an opportunity for a commercial fishery.

Similarly, no new salmon charter boat licenses may be issued. A person may renew an existing license only if the person held a license during the previous year or acquired a license by transfer from a prior license holder.

The prior salmon charter boat license requirement can be waived only if, during the calendar year, no harvest opportunity occurs in the corresponding fishery.

**Summary:** If a commercial salmon fishing license holder notifies the department by May 1 that he or she will not participate in the fishery during that calendar year and pays the \$100 enhancement surcharge plus an additional \$15 handling charge, a commercial salmon fishing license may be renewed the following year.

If a commercial salmon gillnet, reef net, or seine fishing license holder notifies the department by August 1 that he or she will not participate in the fishery during that calendar year and pays the \$100 enhancement surcharge plus an additional \$15 handling charge, a commercial salmon charter boat license may be renewed the following year.

If a salmon charter boat license holder notifies the department by May 1 that he or she will not participate in the fishery during that calendar year and pays the \$100 enhancement surcharge plus an additional \$15 handling charge, a salmon charter boat license may be renewed the following year.

**Votes on Final Passage:**

Senate 46 0  
House 98 0

**Effective:** April 19, 1997

**SB 5361**

C 323 L 97

Regulating charter use of Washington state ferries.

By Senators Wood, Haugen, Prince, Goings, Horn, Patterson, Benton and Winsley.

Senate Committee on Transportation

House Committee on Transportation Policy & Budget

**Background:** In 1987, the Transportation Commission adopted Washington Administrative Code (WAC) 468-300-210, which authorizes the use of Washington State Ferries (WSF) for the purpose of hauling hazardous materials (e.g., fully loaded gasoline trucks). WSF transport of hazardous materials, which is prohibited on regularly scheduled, passenger-carrying voyages, is permitted when a vessel and crew can be made available considering passenger service and vessel maintenance requirements.

Historically, WSF has provided hazardous material transportation service to two island service areas, the San Juan Islands and Vashon Island.

At the time the WAC was adopted, the fare for transport of hazardous materials was set at "the round-trip cost, adjusted quarterly, of fuel, deck, and engine labor (including overtime and minimum crew call-outs, where applicable), supplies, and maintenance."

The application of the WAC was called into question when WSF failed to update the costs on a quarterly basis, thereby understating the actual costs, and when a new vessel deployment pattern was implemented.

Typically, at the completion of the regular service sailing schedule, there are two vessels tied up in the ferry

slips at Friday Harbor without any crew. However, during the summer, a crew is assigned to one of the vessels on Friday night to sail from Friday Harbor to Anacortes for refueling and supplies. WSF contends that the use of the vessel and crew assigned to the Friday night refueling run should logically be used to conduct gasoline truck transfers. Such an arrangement has the least effect on deck crew schedules, passenger service schedules, and vessel maintenance schedules. It is, however, possible to do gasoline truck transfers at other times without affecting the passenger service schedules.

During the spring and summer of 1995, increased interest in using the ferries to haul gasoline trucks was shown by several competing gasoline transport and delivery companies serving the San Juan Islands. Due to the aforementioned perceived operational advantages for WSF, and the ability to grant the most advantageous cost to the gasoline haulers, the scheduling of gasoline transports on Friday nights was instituted. During the summer, a gasoline supplier can arrange to have a ferry transport its gasoline truck to Friday Harbor, wait there while the truck makes deliveries, and then bring the truck back to Anacortes. The vessel then refuels, and returns to Friday Harbor for the next day's service. Pursuant to the WAC, the supplier is charged the "round-trip cost" that would not otherwise be incurred by WSF, i.e., the trip to Friday Harbor and back.

During the non-summer sailing seasons, when it is not cost effective for a vessel to return to Anacortes for refueling, the transport of gasoline trucks essentially involves two round trips. That is, to Anacortes to pick up the truck, back to Friday Harbor to allow the truck to make deliveries, back to Anacortes to return the truck, and back to Friday Harbor. Nonetheless, WSF had been reading the language in WAC, "the round-trip cost," literally such that it only charged the cost of one round-trip, even though it was necessary to make two round trips to provide the service.

The Transportation Commission amended the WAC to recover the actual costs incurred. That is, if two round trips are necessary to provide the service, the supplier is charged for both round-trips.

On San Juan Island, privately operated barge service is also available for the transport of hazardous materials.

**Summary:** Washington State Ferries may be used for the transportation of hazardous materials when established route operations and normal user requirements are not disrupted.

The rate to charter a WSF for purposes of hazardous materials transport is increased to actual operating costs, plus 50 percent. Actual operating costs include, but are not limited to, all labor, fuel, and vessel maintenance costs incurred due to the charter agreement, including deadheading and standby. Hazardous materials transporters must pay for all legs necessary to complete a charter

even if the vessel is simultaneously engaged in an operational voyage on behalf of WSF.

All hazardous materials charters are subject to a written charter agreement.

**Votes on Final Passage:**

Senate	42	2	
House	96	2	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** July 27, 1997

**SB 5364**

C 62 L 97

Authorizing counties to designate an unclassified position for their 911 emergency communications systems.

By Senator Snyder.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The sheriff's department of each county may, according to the size of the department, designate a certain number of unclassified (exempt) position appointments. The sheriffs' departments of some counties also operate the 911 emergency communications system.

**Summary:** In counties with a sheriff's department that operates the 911 emergency communications system, in addition to unclassified (exempt) positions currently authorized, the sheriff may designate one unclassified position for the 911 emergency communications system.

**Votes on Final Passage:**

Senate	49	0
House	97	0

**Effective:** July 27, 1997

**SB 5370**

C 166 L 97

Allowing a telecommunications company to reduce a rate or charge in a more streamlined manner.

By Senators Finkbeiner, Brown, Hochstatter, Strannigan, Rossi, Sheldon, Patterson and Winsley; by request of Utilities & Transportation Commission.

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities

**Background:** Every telecommunications company providing service in Washington is required to file its tariffed schedule of rates with the Washington Utilities and Transportation Commission (WUTC). If a telecommunications company proposes to change a rate, it is required to file the change with WUTC, with a 30-day notice period. WUTC may then approve or suspend the proposed change.

**Summary:** A telecommunications company may file a tariff that decreases its rates with ten days' notice to the Washington Utilities and Transportation Commission if the filing does not contain an offsetting increase to another rate and the filing company agrees not to file, for a period of one year, an increase to another rate to recover the revenue deficit that results from the decrease.

**Votes on Final Passage:**

Senate	47	0	
House	94	2	
House	96	0	(House reconsidered)

**Effective:** July 27, 1997

**SSB 5375**

C 40 L 97

Redefining a distributing organization to include a public health agency.

By Senate Committee on Law & Justice (originally sponsored by Senators Rossi, Hargrove, Sellar, Winsley, Strannigan, Morton, Finkbeiner, Oke, Hochstatter and Long).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Charitable nonprofit organizations, and donors to such organizations, which distribute children's items to needy persons free of charge, including persons who repair or update such items or who donate space in which storage or distribution of children's items takes place, are not liable for any damages or criminal penalties resulting from the nature, age, condition or packaging of the donated items, unless the donor or distributing organization acts with gross negligence or intentional misconduct.

**Summary:** The definition of "distributing organization" is expanded to include public health departments, so that those public entities, and their donors, will enjoy the same immunity from liability as charitable nonprofit organizations.

**Votes on Final Passage:**

Senate	47	0
House	97	0

**Effective:** July 27, 1997

**SB 5380**

C 77 L 97

Raising the maximum per diem for boundary review board members.

By Senators Horn, Haugen, Benton, Franklin, Zarelli and Bauer.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** State law establishes a boundary review board in each county with a population of 210,000 or more (King, Pierce, Snohomish, Spokane, Clark). A boundary review board may be established in any other county by either resolution of the county legislative authority or by a petition signed by qualified electors. The boundary review board in each county with a population of one million or more (King) consists of 11 members. The boundary review board in each county with a population of one million or less consists of five members.

Each member of a boundary review board is compensated from the county current expense fund at a rate of \$25 per day for time actually devoted to work of the board. This amount has not changed since the enactment of boundary review boards in 1967. Most major special purpose district commissioners receive a per diem of \$50 and the total per diem cannot exceed \$4,800 in a term.

**Summary:** The compensation for a member of a boundary review board is raised from \$25 to \$50 per day.

**Votes on Final Passage:**

Senate 46 1  
House 98 0

**Effective:** July 27, 1997

**SB 5383**

C 139 L 97

Facilitating the collection of sales tax on manufactured housing.

By Senators Winsley and Prentice.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. These range from 0.5 percent to 1.7 percent depending upon the location of the sale. The total rate is between 7.0 percent and 8.2 percent.

Use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out of

state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used.

In 1987, the Department of Revenue was given the authority to designate county auditors as its collecting agent for the sales tax on mobile homes. Typically, the sales tax is collected by the Department of Licensing agents at the time of the title transfer.

**Summary:** The collection of the sales tax is returned to the Department of Revenue as reported on the state tax return received from the selling dealer.

The sales and use on the private sales of mobile homes continues to be collected by the Department of Licensing agent at the time of transfer.

**Votes on Final Passage:**

Senate 47 0  
House 98 0

**Effective:** July 1, 1997

**SSB 5394**

C 167 L 97

Regarding school audits.

By Senate Committee on Ways & Means (originally sponsored by Senators Hochstatter, West and Spanel; by request of Office of Financial Management).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The State Auditor conducts fiscal audits of school districts. Portions of the audits concern the accuracy of enrollment and other data submitted to the state for payment of state and federal funds. Occasionally, the State Auditor finds that erroneous data has been submitted, resulting in overpayments of state and federal funds.

The Office of the Superintendent of Public Instruction has clear rules for resolving audits involving recovery of federal money based on federal law and regulations. There is no formal audit resolution process for state moneys. The authority of the Superintendent of Public Instruction to require a school district to submit revised data is not clearly stated. The amount of state money to be recovered due to an audit is often debated and sometimes disputed. There is little assurance that two districts with similar audit findings will be treated in the same way.

**Summary:** The Superintendent of Public Instruction is required to withhold or recover state payments to school districts based on findings of the State Auditor.

The superintendent is authorized to require school districts to submit revised data and is required to revise state payments accordingly.

The superintendent is required to adopt rules setting forth policies and procedures for audit resolutions.



**Votes on Final Passage:**

Senate	48	0
House	90	0

Effective: July 27, 1997

**SB 5395**

C 141 L 97

Changing the formula for determining average salaries for certificated instructional staff.

By Senators West, Hochstatter and Spanel; by request of Office of Financial Management.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The state makes payments to school districts for basic education certificated instructional staff salaries based on a state salary allocation schedule. This salary allocation schedule is used by the state to account for differences in the education and experience of each district's certificated instructional staff. Typically, the greater the experience and education of such staff, the higher the pay.

State funding for special education program certificated instructional staff is based on state salary allocations for basic education staff. The experience and education of special education staff is not included in the calculation of the average salary for state allocation purposes. As a result, the special education program is over-funded in some school districts and under-funded in others. This problem was created in 1995 when the Legislature changed the special education funding formula to be based on a percentage of basic education funding per student.

There is a state salary compliance law which states that the actual average salary paid to a district's basic education certificated instructional staff may not exceed the district's average salary used by the state for basic education allocation purposes.

**Summary:** Special education certificated instructional staff are included with basic education certificated instructional staff for determining a school district's average salary for state allocation purposes.

The state salary compliance law is amended to combine basic and special education staff in determining a school district's maximum average salary for certificated instructional staff in these programs.

**Votes on Final Passage:**

Senate	30	18
House	80	18
House	61	37 (House reconsidered)

Effective: July 27, 1997

**ESSB 5398****FULL VETO**

Reaffirming and protecting the institution of marriage.

By Senate Committee on Law & Justice (originally sponsored by Senators Swecker, Zarelli, Oke and Schow).

Senate Committee on Law &amp; Justice

**Background:** Marriage is a civil contract extensively regulated by the state. In order to be lawfully married, both parties must be at least 18 years of age and capable of giving consent. Marriage is specifically prohibited if one party has a spouse living or if the parties are closely related.

Persons of the same sex are prohibited from legally marrying in the State of Washington. Although not specifically prohibited in the marriage statute, a Washington appellate court decision, *Singer v. Hara*, 11 Wn. App. 247 (1974), held that the marriage statute does not allow marriage between persons of the same gender. In *Singer*, the court relied on references to "husband and wife" and "female and male" contained in the original statute and some current provisions in determining that the Legislature did not intend to authorize same sex marriage. The *Singer* court also held that prohibiting marriage between persons of the same sex does not violate the Equal Rights Amendment to the Washington Constitution or the Equal Protection Clause of the United States Constitution. The Washington Supreme Court approved the *Singer* analysis in *Marchioro v. Chaney*, 90 Wn.2d 298 (1978). In *Marchioro*, the Supreme Court declared that "the governing parties in a marriage must be male and female — one of each" and "equality of treatment ... is sufficient to meet the requirements of the equal rights amendment."

In 1972, prior to the decisions in *Singer* and *Marchioro*, the people of the state of Washington approved Amendment 61 to the Washington Constitution, Article XXXI, commonly known as the Equal Rights Amendment. It declares that "Equality of rights and responsibilities under the law shall not be denied or abridged on account of sex." It is similar to the Hawaii Constitution Equal Protection Clause with regard to discrimination based upon sex.

In 1993, the Hawaii Supreme Court, in *Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993), ruled that not allowing persons of the same sex to marry presumptively violates the Equal Protection Clause of the Hawaii Constitution unless the state can show a compelling government interest in prohibiting same-sex marriage. The court remanded the case to the trial court for a hearing on whether the state has a compelling interest in prohibiting same-sex marriages. The rehearing on this issue was held last year and in an opinion released on December 3, 1996, the trial court decided that the state had failed to show a compelling government interest in prohibiting same-sex marriages.

The effect of this decision is currently on hold pending an appeal to the Hawaii Supreme Court.

If Hawaii ultimately determines that marriage between persons of the same sex is a right protected by the Hawaii Constitution, it is unclear whether the state of Washington would have to recognize a marriage between persons of the same sex that is validly contracted in Hawaii. Generally, the Full Faith and Credit Clause of the United States Constitution requires that states give recognition to the public acts, records and judicial proceedings of other states. However, this is not an absolute requirement and recognition is not required where the act or judicial proceeding in one state violates a strong public policy in another jurisdiction. For example, common law marriages are not valid under Washington statutory law, but case law has established that Washington will recognize a common law marriage if it is valid in the state where it was contracted. Washington courts have held that other marriages prohibited under Washington statutory law, such as polygamous or incestuous marriages will not be recognized in Washington, even if valid in the jurisdiction where they were contracted.

In 1996, Congress passed and the President signed into law, the Defense of Marriage Act. The Defense of Marriage Act does two things. First, it exempts states from having to recognize or give effect to same-sex marriages from other states. Second, it defines marriage for purposes of federal law as a legal union between one man and one woman.

It is felt by some that the passage of the Defense of Marriage Act requires each state to take action in order to avoid giving effect to same-sex marriages contracted in other states or be put in the situation of recognizing those marriages by default.

**Summary:** The Legislature finds that marriage is a matter reserved for the sovereign states to decide individually and that decisions relating to marriage should not be decided by the people or courts of another state.

Washington is declared to have a compelling interest in protecting the institution of marriage and preserving marriage as a union between a man and a woman as husband and wife.

Marriage is defined as a civil contract between a male and a female and the parties to a marriage are a husband and wife.

Marriage between persons of the same sex is prohibited.

No bigamous marriage, incestuous marriage, marriage of relations closer than second cousins, or same-sex marriage from another jurisdiction is valid in Washington.

**Votes on Final Passage:**

Senate	33	15	
House	63	35	
Senate	26	20	(Senate failed to override veto)

**VETO MESSAGE ON SB 5398-S**

February 21, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5398 entitled:

"AN ACT Relating to reaffirming and protecting the institution of marriage;"

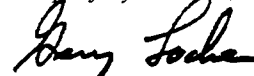
This bill amends the marriage statute by prohibiting same-sex marriage and prohibiting the state of Washington from recognizing any marriage that is not valid in this state. The first prohibition is unnecessary because persons of the same sex are already barred from legally marrying in the state of Washington. A Washington Court of Appeals decision, *Singer v. Hara*, 11 Wa. App. 247 (1974), clearly held that the Washington marriage statute does not allow marriage between persons of the same sex. The Washington Supreme Court approved the *Singer* analysis in *Marchioro v. Chaney*, 90 Wn. 2d 298 (1978).

In 1996, the federal Defense of Marriage Act exempted the individual states from any requirement that they recognize or give effect to same-sex marriages from other states. Washington courts have consistently held that marriages not recognized under Washington law will not be recognized or given effect in Washington, even if valid in the jurisdiction where they were contracted. The second prohibition of the ESSB 5398 is therefore unnecessary.

As I said in my Inaugural Address, I will oppose measures that divide, disrespect or diminish our humanity. Our overarching principle should be to promote civility, mutual respect and unity. This legislation fails to meet this test.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5398 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5401**

C 28 L 97

Setting compensation for public utility district commissioners.

By Senate Committee on Government Operations (originally sponsored by Senators Sellar, Snyder and Haugen).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Each public utility district commissioner of a district that operates utility properties receives a salary during the calendar year dependent upon the district's total gross revenue from its distribution system and its generating system as follows:

Over \$15 million: \$500/month

\$2 to \$15 million: \$350/month

Commissioners of other districts serve without salary unless a resolution provides for a salary, which must not

exceed \$200/month. This salary schedule has been in effect since 1977.

**Summary:** Public utility district commissioner salaries are raised as follows:

Over \$15 million: From \$500/month to \$1,000/month. A resolution could raise salary up to \$1,300/month.

\$2 to \$15 million: From \$350/month to \$700/month. A resolution could raise salary up to \$900/month.

Commissioners of other districts: With passage of a resolution, from up to \$200/month to up to \$400/month.

The total gross revenue of a public utility district, for setting salaries, is no longer restricted to revenue only from a distribution system and its generating system.

**Votes on Final Passage:**

Senate	47	1
House	86	11

**Effective:** July 27, 1997

## SB 5402

C 388 L 97

Providing tax exemptions for nonprofit camps and conferences.

By Senators Roach, Johnson, Sheldon, Bauer, Patterson and Haugen.

Senate Committee on Ways & Means

**Background:** Nonprofit organizations are subject to the business and occupation (B&O) tax on their income and must collect sales taxes on their sales unless specifically exempt by statute. Exemption from federal income tax does not automatically provide an exemption for state taxes. Most nonprofit organizations pay B&O tax at the services rate of 1.829 percent. However, because of the \$420 per year B&O tax credit, nonprofit organizations with gross incomes below \$22,963 per year owe no B&O tax.

Current law exempts several nonprofit organizations from B&O tax, including adult family homes licensed by the state, nonprofit organizations that are guarantee agencies under the federal guaranteed student loan program, credit and debt counseling organizations, corporations created by Congress to provide aid to members of the armed forces (Red Cross), and sheltered workshops.

In addition, nonprofit organizations are exempt from B&O tax and are not required to collect sales tax on the following fund-raising activities.

*Public Benefit Organization Auctions.* Income from fund-raising auctions conducted by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code is exempt from B&O tax and sales tax if the auction is held no more than once a year for a period no greater than two days. Organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code

include organizations which are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; or to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals. No part of the net earnings may inure to the benefit of any private individual or shareholder, nor may a substantial part of the activities of which is to attempt to influence legislation. In addition, the organization may not participate in any political campaign.

*Bazaars and Rummage Sales.* The first \$20,000 raised from bazaars and rummage sales conducted by nonprofit organizations received in a calendar year is exempt from B&O tax, and the organization does not have to collect sales tax, if the sales are conducted no more than twice each year and each sale lasts no more than two days.

*Fund-raising Drives/Concessions.* By rule of the Department of Revenue, income from fund-raising drives and concessions conducted by nonprofit organizations other than public benefit organization auctions is exempt from B&O tax and sales tax if the activities meet the criteria for exemption as bazaars and rummage sales.

*Meals.* By rule of the Department of Revenue, income to nonprofit organizations from the serving of meals for fund-raising purposes is exempt from B&O tax and sales tax if the meals are served no more frequently than once every two weeks and the gross receipts are \$1,000 or less.

In addition, bona fide initiation fees, dues, contributions, donations, and tuition fees may be deducted from income in computing tax liability unless the dues are in exchange for any significant amount of goods or services or the dues are graduated upon the amount of goods or services rendered.

**Summary:** The sales of certain goods and services by nonprofit camps and conference centers are exempt from retail sales tax and B&O tax. The exemption is limited to sales of: (a) lodging, conference and meeting rooms, camping facilities, and parking; (b) food and meals; and (c) books, tapes, and other products available exclusively to participants at the camp or conference and not available to the general public.

**Votes on Final Passage:**

Senate	41	0
House	95	2

**Effective:** October 1, 1997

## SB 5422

C 78 L 97

Updating professional gambling definitions.

By Senators Schow, Newhouse, Prentice and Horn; by request of Gambling Commission.

## SB 5426

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Professional gambling is prohibited under current law. Persons participating in certain activities defined in statute are considered to be engaged in professional gambling. Generally, these activities include: Conducting, aiding in the operation of, or participating in an illegal gambling activity, such as bookmaking, or greyhound racing; conducting, aiding in the operation of, or participating in a legal gambling activity but in an illegal manner, such as card fixing in blackjack, or operating a high stakes poker or blackjack game.

It is a class B felony to commit professional gambling in the first degree. It is a class C felony to commit professional gambling in the second degree. Professional gambling in the third degree is a gross misdemeanor.

A person is guilty of professional gambling in the first or second degree when he or she engages in professional gambling and meets at least one of several additional elements.

There are concerns that current law does not clearly define what activities constitute the crimes of professional gambling.

**Summary:** The definition of professional gambling is modified to clearly delineate the types of specific activity that can be defined as professional gambling. In addition, the statutes defining professional gambling in the first degree and second degree are also modified to clarify the type of activity included under each of these crime classifications.

### Votes on Final Passage:

Senate	49	0
House	98	0

**Effective:** July 27, 1997

## SB 5426

C 41 L 97

Deleting references to the former judicial council.

By Senator McCaslin.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** In 1994, the Legislature established a process to eliminate redundant and obsolete boards and commissions.

In 1995, the Legislature eliminated the Judicial Council.

**Summary:** References to the Judicial Council in the RCW are deleted.

A requirement that the annual reports of the Administrator for the Courts include activities related to courthouse security is added to one section. A reference to the Administrator for the Courts is corrected to indicate

that the Office of Public Defense addresses determinations of indigency.

### Votes on Final Passage:

Senate	49	0
House	97	0

**Effective:** July 27, 1997

## SB 5439

C 142 L 97

Providing an exclusion for what constitutes surface mining.

By Senators Morton, Hargrove, Stevens and Benton.

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** During the 1996 legislative session, legislation was passed which exempts county fees for small gravel pits and surface mines used for public works projects. Counties must still pay for reclamation plans. An exemption to the Surface Mining Act for small counties would affect pits from three to seven acres.

**Summary:** Surface mining excludes excavations or grading used primarily for public works projects, if the mines are owned or operated primarily by counties with 1993 populations of less than 20,000 persons, and each mine has an area of less than seven acres of disturbed area.

### Votes on Final Passage:

Senate	46	1
House	62	36

**Effective:** July 27, 1997

## 2SSB 5442

C 385 L 97

Permitting expedited flood repairs during flooding emergencies.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Loveland, Anderson, Stevens, Haugen, Prince, Hale, Franklin, Sheldon, Benton, Rasmussen and Zarelli).

Senate Committee on Natural Resources  
Senate Committee on Ways & Means  
House Committee on Agriculture & Ecology

**Background:** There has been significant flooding in recent years. Counties have the primary authority in developing flood reduction plans. Plans are written in cooperation with the Department of Ecology, the Department of Natural Resources, and other state and federal agencies. The law dealing with construction in state waters is not clear on what constitutes an emergency and

what can be done to prevent flooding while still protecting fish habitat.

**Summary:** The three types of hydraulic permits issued by the Department of Fish and Wildlife are established in statute. The standard and expedited permits are written permits. The department must issue expedited permits within 15 days of receiving a complete application. Expedited permits are issued when there is an imminent threat of damage from a flood. Imminent threat is defined as a flood or weather-related threat that is likely to occur within 60 days. The department may not require an environmental analysis under the State Environmental Policy Act as a condition of issuing an expedited permit. Expedited permits are valid for up to 60 days. A definition of emergency is established for the purpose of defining when immediate oral approval must be granted for an emergency permit. A county legislative authority or the department can declare an emergency or an imminent threat. A county legislative authority is required to notify the department when declaring an emergency or imminent threat.

At the request of a county, the department must develop five-year maintenance agreements. Maintenance agreements will allow specified work in the state's waters without the need to obtain project specific permits. These five-year agreements must be consistent with the local comprehensive flood plan. The department may specify the conditions and times under which project work may occur.

**Votes on Final Passage:**

Senate	48	1	
House	98	0	(House amended)
Senate	42	1	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5445**  
**PARTIAL VETO**  
**C 275 L 97**

Making technical corrections to statutes administered by the department of health.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood, Fairley and Winsley).

Senate Committee on Health & Long-Term Care  
House Committee on Health Care

**Background:** In 1994, an incorrect reference to the law regulating nursing assistants was made in the Uniform Disciplinary Act. In 1995, through the passage of two separate bills, a section of law regarding protection of emergency medical service providers from liability was amended twice. In 1996, double amendments were made to several sections of law pertaining to regulation of

speech pathologists, audiologists and hearing instrument fitter/dispensers.

These technical errors require correction.

**Summary:** Two sections of law dealing with liability protection for emergency medical service personnel are combined. The double amendments are eliminated and the other errors mentioned above are corrected, including language specifically stating when hearing aid permits expire.

A final report on nurse delegation is due on December 31, 1998, adding one year to the length of the study. Nursing assistants may choose not to receive delegation based on patient safety issues.

The Department of Social and Health Services is prohibited from imposing civil fines authorized under nursing assistant statutes on adult family homes.

Higher compensation is authorized for members of health care commissions having quasi-judicial functions with responsibilities for policy direction in health professional credentialing programs, and performing regulatory and licensing functions. Members of these commissions may receive compensation of up to \$250 per day for each day spent performing authorized duties.

The Department of Health is directed to study the feasibility of changing the comprehensive hospital abstract reporting system to include ambulatory and outpatient data. The department must submit a final report on July 1, 1998.

**Votes on Final Passage:**

Senate	49	0	
House	96	0	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed language that would have suspended the ability of the Department of Social and Health Services to levy fines on adult family homes for improper delegation of nursing tasks until July 1, 1997.

Language permitting a new "class five" category of health care boards and commissions eligible for compensation up to \$250 per day was also vetoed.

**VETO MESSAGE ON SB 5445-S**

May 6, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 9 and 10, Substitute Senate Bill No. 5445 entitled:

"AN ACT Relating to making technical corrections to statutes administered by the department of health;"

Section 9 of SSB 5445 would have stayed imposition of civil fines on adult family homes for the improper delegation of nursing tasks until July 1, 1999, while a study is being done. The Department of Social and Health Services should not be prevented from imposing fines when there have been egregious violations of the law. The department should use its discretion in

cases where the law or the propriety of a task delegation may be unclear.

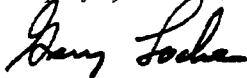
Section 10 of SSB 5445 would have established a new "class five" category of boards and commissions, that would include only certain health profession commissions. Class five commissions would be eligible to receive compensation up to \$250 per day.

Currently, there are several levels of boards and commissions with the highest compensation level being \$100 per day. These are groups that have duties of overriding sensitivity and importance to the public welfare and the operation of state government, and whose members meet more than 100 hours per year. It would be unfair and inappropriate to increase the compensation for health profession commissions without considering adjusting the compensation for other boards and commissions as well.

For these reasons, I have vetoed sections 9 and 10 of Substitute Senate Bill No. 5445.

With the exception of sections 9 and 10, I am approving Substitute Senate Bill No. 5445.

Respectfully submitted,



Gary Locke  
Governor

**SB 5448**

C 79 L 97

Merging the health professions account and the medical disciplinary account.

By Senators Deccio, Wojahn, Wood and Fairley.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The Department of Health is responsible for licensing new physicians and physicians' assistants. The department is also responsible for investigating complaints against members of these two professions. Both activities are funded through fees paid by physicians and physicians' assistants.

Both the licensing function and the disciplinary function are administered by the Medical Quality Assurance Commission within the Department of Health. Separate fees must be paid by physicians and physicians' assistants so that the appropriate amounts can be placed in the medical disciplinary account and the health professions account to support the commission's activities. The commission utilizes available funding from both accounts to carry out its mission.

**Summary:** The medical disciplinary account is eliminated. All funds in the medical disciplinary account are transferred to the health professions account and all fees from the licensing and disciplinary activities must be placed in the health professions account. The separate licensing and disciplinary fees must be merged into one fee, equal to the sum of the two separate fees.

**Votes on Final Passage:**

Senate	48	0
House	98	0

Effective: July 1, 1997

**SB 5452**

C 143 L 97

Exempting nonprofit cancer centers from property tax.

By Senators Hale, Loveland, West, Winsley, Rasmussen and Oke.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All property in this state is subject to the property tax each year based on the property's value unless a specific exemption is provided by law. The only class of property which is exempt by the state Constitution is that owned by the United States, the state, its counties, school districts, and other municipal corporations, but the state Constitution allows the Legislature to exempt other property from taxation.

Major property tax exemptions for nonprofit organizations include churches, nonprofit hospitals, nursing homes, homes for the aging, blood banks, the Red Cross, private schools and colleges, sheltered workshops, day care centers, assembly halls and meeting places, libraries, and youth organizations.

**Summary:** All real or personal property owned or used by a nonprofit organization in connection with a nonprofit cancer clinic is exempt from property tax. To receive an exemption, the following conditions must be met:

- 1) The clinic must be comprised of or have been formed by an organization qualified for exemption under section 501(c)(3) of the federal Internal Revenue Code, by a municipal hospital corporation, or by both;
- 2) The clinic must be operated by an organization qualified for exemption under section 501(c)(3) of the federal Internal Revenue Code; and
- 3) The property must be used primarily in connection with the prevention, detection, and treatment of cancer.

The exemption also applies to administrative offices located within the clinic that are used exclusively in conjunction with the cancer treatment services provided by the clinic. To be exempt, the exemption benefit for leased real or personal property must go directly to the cancer clinic.

The act is effective for taxes levied for collection in 1998 and thereafter.

**Votes on Final Passage:**

Senate	49	0
House	98	0

Effective: July 27, 1997

**SB 5460**  
**FULL VETO**

Limiting the use of public funds for political activities.

By Senators McCaslin, Deccio and Zarelli.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Most local governmental units in the state are members of associations which provide educational and legislative development resources. For example, cities and towns belong to the Association of Washington Cities, and counties and county officials belong to the Washington State Association of Counties and the Washington Association of County Officials. To support the activities of these associations, members pay dues from their general revenues, i.e. receipts from taxes and fees. Unless created by statute, these associations are treated as private entities and are not subject to audit by the State Auditor. The Auditor also considers the moneys paid by members to such private associations as no longer public, but private funds, once they have been transferred. Public and private associations representing local governmental units have, from time to time, expended funds in support of or in opposition to ballot measures.

**Summary:** No association, organization, or entity that derives more than 25 percent of its income from dues, assessments, or membership fees paid with public funds may provide any financing support or use of its facilities for or against a ballot proposition or candidate for public office.

No county may reimburse either the Washington State Association of Counties or the Washington Association of County Officials for contributing to political committees or for funds used as political contributions.

**Votes on Final Passage:**

Senate	27	21	
House	59	39	(House amended)
Senate			(Senate refused to concur)
House	51	45	(House receded)

**VETO MESSAGE ON SB 5460**

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5460 entitled:

"AN ACT Relating to the use of public funds;"

Senate Bill No. 5460 attempts to address a valid question: To what extent should private organizations funded in part from fees derived from public funds be permitted to engage in campaigns for or against candidates or ballot issues?

This is a more complicated issue than is recognized by the bill. There is a great range of organizations funded in part by dues, fees or assessments paid from public funds. These include private, voluntary associations of government entities; organizations that include governments and businesses as members; and

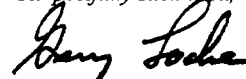
health maintenance organizations funded with fees paid for public-employee members. Some of these organizations are directly involved in government and public issues. Others may serve the private needs of individuals but may be affected by political issues.

This bill would prohibit any of these organizations from engaging in campaigns for or against ballot issues or candidates, if more than 25% of their income is derived from fees or assessments paid with public funds. That is more restrictive than the law that applies to elected officials or public agencies, which provides an exception for the "normal and regular" duties of public office.

SB 5460 does not distinguish between the public and private nature of affected organizations, or distinguish appropriate functions from inappropriate election activity.

For these reasons, I have vetoed Senate Bill No. 5460 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5462**

C 396 L 97

Changing local government permit timeline provisions.

By Senate Committee on Government Operations (originally sponsored by Senators Hale, Anderson, Haugen, Patterson, Goings, McCaslin and Winsley).

Senate Committee on Government Operations  
House Committee on Government Reform & Land Use

**Background:** When a project permit application is sought for any land use or environmental permit required from a local government for a project action, a local government that is planning under the Growth Management Act must provide appropriate notification of the application to the public. If the local government determines that the project will have a significant impact pursuant to the State Environmental Policy Act, the notice of application must be provided along with the determination of significance (DS). The notice of application is provided within 14 days after the permit application is considered complete.

The local government may not issue a decision or recommendation on a project permit until the public comment period has expired, with the exception of the DS.

Under the Land Use Petition Act, an applicant may appeal a final land use decision by a local jurisdiction. The land use petition must be timely filed with the court and timely served on the appropriate parties. The appeal is timely if it is filed and served on all appropriate parties within 21 days of the issuance of the land use decision.

Concern has been expressed with regard to the timelines and the duplication of notices when a local government makes a determination of nonsignificance

## SSB 5464

(DNS) in connection with a permit application. In these situations, a notice of application must be issued for a project, followed by a public comment period of 14 to 30 days before a DNS may be issued. A second public notice is issued with the DNS, and the local government generally must wait an additional 15 days after the issuance of the DNS before a permit can be issued.

**Summary:** The determination by the local government in connection with a permit application is expanded to a threshold determination of either significance and nonsignificance. The notice of application may be combined with issuance and public notice of a DS or DNS, eliminating the need for two public notices, and eliminating 14 to 30 days from the project timeline.

### Votes on Final Passage:

Senate	41	6	
House	63	34	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

**Effective:** July 27, 1997

## SSB 5464

C 5 L 97

Extending gender equity provisions.

By Senate Committee on Higher Education (originally sponsored by Senators Kohl, Wood, Jacobsen, Winsley, Bauer, Hale, Patterson, Prince, Brown, Spanel, Sheldon, McAuliffe, Wojahn, Franklin, Thibaudeau, Snyder and Kline).

Senate Committee on Higher Education  
House Committee on Higher Education

**Background:** In 1983, the Whitman County Superior Court concluded in *Blair v. Washington State University* that Washington State University discriminated against its female athletes. Based on the Washington Equal Rights Amendment, the court required the university to provide intercollegiate athletic opportunities at a proportionate rate to its male and female student population.

In 1989, the Legislature gave the four-year higher education institutions the authority to waive up to 1 percent of their estimated tuition and fee revenue to achieve or maintain gender equity in intercollegiate athletic programs. The tuition waiver authority will sunset June 30, 1997. The Legislature also required the institutions to provide athletic opportunities for an under-represented gender at the same rate as that gender participated in high school athletics.

The Higher Education Coordinating Board must report to the Legislature every two years regarding institutional efforts to achieve gender equity.

**Summary:** The sunset date for tuition waiver authority is repealed.

By June 30, 2002, institutions of higher education shall strive to achieve equitable participation in their intercollegiate athletics programs. Equitable means that the ratio of female and male students participating in intercollegiate athletics is substantially proportionate to the ratio of female and male students who are 17 to 24-year-old undergraduates enrolled full-time on the main campus.

Beginning in the 1999-2000 academic year, an institution that does not provide, by June 30, 1998, athletic opportunities for an historically under-represented gender class at the high school rate must have a new plan for achieving gender equity in intercollegiate athletics approved by the Higher Education Coordinating Board before providing further waivers.

Beginning in the 2003-2004 academic year, an institution that is not within 5 percent of equity by June 30, 2002, must have a new plan for achieving gender equity in intercollegiate athletics approved by the Higher Education Coordinating Board before providing further waivers.

The Higher Education Coordinating Board must report every four years beginning in 1998, on institutional efforts to comply with the gender equity requirements.

### Votes on Final Passage:

Senate	49	0
House	90	3

**Effective:** July 1, 1997

## SSB 5470

C 80 L 97

Doubling penalties for passing school buses.

By Senate Committee on Transportation (originally sponsored by Senators Rossi, Hargrove, Benton, Sellar, Morton, Winsley, Finkbeiner, Oke, Hochstatter, Long, Swecker, Johnson, Zarelli and Strannigan).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The basic fine for the traffic infraction of failing to stop for a school bus that has its red lights on (i.e., discharging or picking up school children) is \$80. There is an additional surcharge for court costs.

**Summary:** The basic fine for the traffic infraction of failing to stop for a school bus that has its red lights on is doubled, to \$160. These fines may not be waived, reduced or suspended. Fifty percent of this fine (\$80) is deposited into the school zone safety account to be used for traffic safety in and around schools, and for student safety in school bus loading and unloading zones.

### Votes on Final Passage:

Senate	48	0
House	98	0

**Effective:** July 27, 1997



**SSB 5472**

C 168 L 97

Creating the caseload forecast council.

By Senate Committee on Ways & Means (originally sponsored by Senators West, Spanel, McDonald, Kohl, Long, Sheldon, Strannigan, Oke and Winsley).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The Office of Financial Management (OFM), along with the Department of Social and Health Services and other state agencies, prepares caseload forecasts for state social programs, corrections, medical assistance, long-term care, income assistance and K-12.

In addition, OFM annually prepares population estimates for local governments for the allocation of revenues. They prepare annual certifications of all annexations and new incorporations in Washington for the federal Bureau of the Census, and act as the official liaison to the federal Census Bureau.

The Economic and Revenue Forecast Council consists of representatives of each of the four legislative caucuses and two representatives of the Governor. The council employs a forecast supervisor and staff who prepares economic and revenue forecasts four times a year.

**Summary:** A new Caseload Forecast Council is created, comprised of representatives of each of the four legislative caucuses and two representatives of the Governor.

The council employs a supervisor and staff to perform forecasts of state entitlement programs, correctional institutions, institutions for juvenile offenders, K-12, long-term care, medical assistance, foster care and adoption support. The Caseload Forecast Council does not forecast state population and is not involved in population estimates.

These forecasts are to be made at least three times per year and coincide with the development of the Governor's budget proposal and the legislative budget.

A workgroup consisting of staff from OFM, legislative committees, and state agencies is formed to facilitate a free flow of information concerning the forecast. The workgroup is involved in the assumption setting process and has access to the models used for the forecasts.

**Votes on Final Passage:**

Senate	47	0
House	82	8

**Effective:** July 1, 1997

**SSB 5483**

C 391 L 97

Licensing whitewater river outfitters.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Johnson, Oke, Snyder, Prentice, Kohl, Rossi, Spanel, Swecker and Schow).

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** Whitewater river outfitters and guides may register with the Department of Licensing. A whitewater outfitter and guide licensing program with minimum age, training and licensing requirements would provide for a more tightly regulated whitewater rafting industry.

**Summary:** A whitewater river outfitters license is created. Persons who operate as whitewater outfitters must be licensed, hire trained guides, carry sufficient insurance, and comply with equipment and training requirements established in statute.

**Votes on Final Passage:**

Senate	45	4	
House	87	11	(House amended)
Senate	37	6	(Senate concurred)

**Effective:** July 27, 1997

January 1, 1998 (Sections 2, 4, 5, 7 and 8)

**SB 5484****FULL VETO**

Revising regulation of swimming pools.

By Senators Hale and Loveland.

Senate Committee on Health & Long-Term Care  
House Committee on Health Care

**Background:** The state Board of Health is authorized to adopt rules governing safety, sanitation, and water quality for water recreation facilities. However, a facility intended for the exclusive use of residents of a condominium complex or any group or association of less than 15 homeowners is not to be subject to preconstruction design review, routine inspection, or permit or fee requirements.

**Summary:** The exemption from preconstruction design review, routine inspection, and permit or fee requirements under the Board of Health's water recreation facility rules is extended to any facility intended for the exclusive use of any condominium complex or group or association of less than 75 homeowners.

**Votes on Final Passage:**

Senate	41	7	
House	72	26	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
House	61	36	(House receded)

VETO MESSAGE ON SB 5484

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5484 entitled:

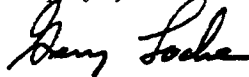
"AN ACT Relating to water recreation facilities;"

Senate Bill No. 5484 would greatly increase the number of swimming pools or other water recreation facilities owned by the homeowner associations and mobile home parks that are exempt from health and safety rules, and create a serious health and safety risk to residents of Washington. While I am sensitive to the economic impacts regulation has on small homeowner associations and mobile home parks, the increased risk of illness, injury or death that would be created by this bill cannot be justified.

I am directing the Department of Health to review the Water Recreation Program regulations and to work with local health jurisdictions to assure that program rules, fees and charges are equitable both to protect the health and safety of the public and to limit the financial burden on the facilities affected.

For this reason, I have vetoed Senate Bill No. 5484 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

SB 5486

C 81 L 97

Revising eligibility for rural arterial programs.

By Senators Morton, Snyder and Prince; by request of County Road Administration Board.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The rural arterial program, administered by the County Road Administration Board, provides grant funds to reconstruct county rural arterial roads. At the time of the program's creation in 1983, county roads were comprised of major and minor collectors according to the federal functional classification system. Since 1983 the Department of Transportation has transferred approximately 309 miles of minor arterials to the counties which, according to the current statute, are not eligible for the grant funds.

Current statute makes counties ineligible for the rural arterial program grant funds if road funds are diverted for anything other than proper county road purposes. Counties with populations between 5,000 and 8,000 are exempt from this requirement.

**Summary:** Minor arterials are added to the list of roads eligible for rural arterial program grant funds.

Counties with a population of less than 8,000 are exempt from the rural arterial program eligibility requirement of not diverting road funds to other uses.

Votes on Final Passage:

Senate 47 0  
House 98 0

Effective: July 27, 1997

ESSB 5491

C 280 L 97

Revising provisions for termination of parent and child relationship.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Swecker, Strannigan, Schow and Hochstatter).

Senate Committee on Human Services & Corrections  
House Committee on Children & Family Services

**Background:** A "dependent child" means any child who has been abandoned, who is abused or neglected by a person legally responsible for the child's care, or who has a developmental disability and whose care cannot be provided in the home. At a fact-finding hearing held 75 days after filing a dependency petition, the court may continue the removal of a child from the home. This decision is made based upon a preponderance of the evidence.

**Summary:** At the 75 day fact-finding hearing, the court is required to use the standard of clear and convincing evidence to continue the placement of a child out of his or her home on the basis that a manifest danger exists to the child.

Votes on Final Passage:

Senate 47 0  
House 98 0 (House amended)  
Senate (Senate refused to concur)

Conference Committee

House 97 0  
Senate 41 0

Effective: July 27, 1997

SB 5503

C 281 L 97

Adopting recommendations of the state board for community and technical colleges regarding the 1991 merger of community and technical colleges.

By Senators Anderson, Kohl, Winsley, Bauer, Hale, Wood, McAuliffe, Goings, Spanel and Patterson; by request of State Board for Community and Technical Colleges.

Senate Committee on Higher Education  
House Committee on Higher Education

**Background:** In 1991, the state's five technical colleges were removed from the jurisdiction of local school boards and merged with the community college system. The service areas created for the technical colleges overlapped service areas of nearby community colleges. In order to diminish the potential for program duplication and to preserve the workforce mission of the technical colleges, the legislation that created the merged system addressed both issues.

At the time of the merger, the technical colleges had an exclusive mission to prepare persons 16 years of age and older for the workforce. In most respects, they operated under an educational model in which the basic and technical skills needed to succeed in a particular occupation were all provided by the instructor of the technical or occupational program in which a student was enrolled. The legislation that created the merged system attempted to preserve the exclusive workforce preparation and basic skills mission of the technical colleges by restricting the types of programs that technical colleges may offer. Technical colleges may offer only nonbaccalaureate technical degrees, certificates, or diplomas for occupational courses of study. The two technical colleges in Pierce County were permitted to offer the nonbaccalaureate associate of technical or applied arts degrees only in conjunction with a community college in Pierce County.

In Whatcom County, the authority to offer transfer level academic support and general education became the exclusive jurisdiction of Whatcom Community College. Bellingham Technical College was not permitted to offer classes in those areas.

The legislation required the State Board for Community and Technical Colleges to prepare and distribute a report evaluating the successes and difficulties associated with the merger. The report was due by December 1, 1996. In the report, the state board recommended retaining the exclusive workforce preparation and basic skills mission of the technical colleges. It also recommended lifting the restrictions specifically directed to technical colleges in Pierce and Whatcom counties.

**Summary:** Technical colleges may offer only technical degrees whose primary purpose is preparation for employment in a specific occupation. Technical colleges may not offer transfer degrees. The colleges may offer transfer level academic support courses needed by all students seeking a particular degree or certificate.

Technical colleges in Pierce County may offer nonbaccalaureate associate of technical or applied arts degrees without the agreement of a community college in the county. All technical colleges may offer transfer level support courses that are required of all students seeking a particular certificate or degree.

The technical colleges must abide by any rules adopted by the state board concerning these authorities.

#### Votes on Final Passage:

Senate	48	1	
House	98	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 1997

## SSB 5505

C 443 L 97

Directing agencies to assist growing communities in securing safe and reliable water sources.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen and Swecker).

Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means  
House Committee on Agriculture & Ecology  
House Committee on Appropriations

**Background:** The Growth Management Act (GMA) requires certain counties, and the cities within those counties, to conduct comprehensive planning for future growth. With input from cities located within its boundaries, each county planning under GMA must adopt countywide planning policies guiding the development of the comprehensive plans. Counties also must adopt urban growth areas in which the urban growth projected for the next 20 years is to be located. The growth projections are made by the state Office of Financial Management based on demographic information.

Withdrawal of surface or ground waters requires a water right issued by the Department of Ecology. When an application is received, the Department of Ecology will investigate the application, the amount of water available for appropriation by the applicant, and the beneficial uses to which that water can be applied. If the department finds that water is not available for appropriation, or the proposed appropriation would impair existing rights or be detrimental to the public welfare, the water right will be denied.

In 1996 a number of water right applications were denied by the Department of Ecology, including some permits for public water supply systems. It has been suggested that applicants who have been denied a water right will need assistance in locating and developing sources of water to accommodate projected growth.

**Summary:** The Department of Ecology must provide assistance upon request to an applicant for a water right in obtaining an adequate supply of water. The supply of water must be consistent with the local land use plan and the population forecast made by the Office of Financial Management for the area. For public water supply systems, the supply sought must be consistent with any applicable watershed and water system plans, as well as the population forecast.

## SB 5507

### Votes on Final Passage:

Senate	49	0	
House	91	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 1997

## SB 5507

C 82 L 97

Allowing the holder of a juvenile agricultural driving permit to participate in school traffic safety classes.

By Senators Prince, Hochstatter, Morton and Rasmussen.

Senate Committee on Transportation

House Committee on Transportation Policy & Budget

**Background:** Current statute provides for the issuance of a juvenile agricultural driving permit to persons under the age of 18 by the Department of Licensing. The permit allows for the operation of a motor vehicle on and around public highways in a restricted area for one year.

**Summary:** The holder of a juvenile agricultural driving permit is allowed to participate in the classroom portion of a traffic safety education course approved by the Superintendent of Public Instruction and offered in the community in which the holder is a resident.

### Votes on Final Passage:

Senate	44	0
House	98	0

Effective: July 27, 1997

## SSB 5509

C 70 L 97

Changing definitions regarding offenders.

By Senate Committee on Ways & Means (originally sponsored by Senators Rossi, Roach, Zarelli, Winsley, Long, Morton, Goings, Finkbeiner, Oke, Hochstatter, Benton, Johnson, Stevens, McCaslin and Rasmussen).

Senate Committee on Law & Justice

Senate Committee on Ways & Means

House Committee on Criminal Justice & Corrections

**Background:** Sentencing laws define a "persistent offender" as an offender who has three separate felony convictions for a "most serious offense" (three strikes), or who has two separate felony convictions for a "most violent sex offense" or for a violent offense if committed with a sexual motivation (two strikes).

It has been suggested that offenders who prey on children should be classified as persistent offenders after two separate convictions for such offenses. The concern is that children are particularly vulnerable, and it is disputed whether the behavior of such offenders can be modified to

make it safe for them to be released back into the community.

**Summary:** The "two strikes" portion of the definition of "persistent offender" is amended to include the crimes of rape of a child in the first degree, child molestation in the first degree, and homicide by abuse and assault of a child in the first degree, with a finding of sexual motivation.

The definition of "offender" is amended to include a juvenile who has come under the superior court's jurisdiction as a result of RCW 12.04.030 (automatic decline).

### Votes on Final Passage:

Senate	45	1
House	87	4

Effective: July 27, 1997

## SSB 5511

### PARTIAL VETO

C 282 L 97

Modifying provisions relating to retention of reports of child abuse or neglect.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Zarelli, Haugen, Benton, Strannigan, Rasmussen, Hochstatter, Schow and Goings).

Senate Committee on Human Services & Corrections

House Committee on Children & Family Services

**Background:** Before 1987, the Department of Social and Health Services entered substantiated and unsubstantiated reports and information into a record-keeping system known as the Central Registry for Child Abuse and Neglect. The Central Registry was used to track child abuse and neglect reports. Persons who were the subject of reports in the Central Registry were provided notice and given the opportunity to challenge reports in the Central Registry. In 1987, the Legislature repealed the Central Registry and replaced it with background checks of pending criminal charges, criminal histories, civil adjudications, or disciplinary board final decisions related to child abuse or neglect through the Washington State Patrol crime computer.

The Department of Social and Health Services has continued to collect and use substantiated and unsubstantiated reports of child abuse and neglect on a new computer system known as the case and management information system (CAMIS) to conduct background checks on individuals.

**Summary:** The Department of Social and Health Services must purge, after six years, information in files or reports of child abuse and neglect if the information is related to unfounded referrals and no new reports have been received within the six years. "Unfounded" is defined to

mean: "Available evidence indicates that, more likely than not, child abuse or neglect did not occur."

The department must notify people who are the subject of reports of child abuse or neglect at a point when the child and the investigation will not be jeopardized. The person must be advised that they may file a written response in the record. A person interested in working at a licensed child care agency may request an informal meeting with the department to discuss and contest the information in the record.

**Votes on Final Passage:**

Senate	45	1	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	38	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed a portion of the bill that required DSHS to collect and report data regarding the CAMIS system.

**VETO MESSAGE ON SB 5511-S**

May 7, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Substitute Senate Bill No. 5511 entitled:

"AN ACT Relating to child abuse and neglect information;"

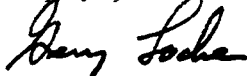
Section 3 of SSB 5511 would have required the Department of Social and Health Services to report annually to the legislature on the number of reports of child abuse or neglect determined to be unfounded, and the percentage of unfounded reports compared to the total number of reports received by the Department, and the number of files or reports from which unfounded information was purged.

As part of my quality improvement efforts, I have undertaken to review our statutes for all reporting requirements and to rid state government of unnecessary reports and paperwork. It would be contrary to that effort to pass into law yet another unnecessary report.

For this reason, I have vetoed section 3 of Substitute Senate Bill No. 5511.

With the exception of section 3, I am approving Substitute Senate Bill No. 5511.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5512**

C 344 L 97

Prohibiting requiring the admission of guilt to receive treatment in child abuse and neglect.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Benton, Haugen, Strannigan, Hochstatter, Rasmussen, Schow and Oke).

Senate Committee on Human Services & Corrections  
House Committee on Children & Family Services

**Background:** In a dependency proceeding the court requires that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home to complete the necessary treatment and education to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides.

**Summary:** Unless a parent, custodian, or guardian is convicted of a crime for acts of abuse, they cannot be required to admit guilt in order to begin fulfilling court-ordered treatment or educational programs.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5513**

C 83 L 97

Providing exceptions from vessel registration.

By Senate Committee on Transportation (originally sponsored by Senators Oke, Spanel, Wood and Horn).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Vessels that have a valid registration number under federal law or by an approved issuing authority of the state of principal operation are exempt from vessel registration in the state of Washington. However, a vessel that is validly registered in another state, but is removed to this state for principal use has 60 days to register with this state. At the time of registration, the watercraft excise tax is due. The excise tax is equal to one half of 1 percent of the fair market value of the vessel.

**Summary:** On or before January 1, 1998, vessels that are owned by nonresidents and used for personal use and enjoyment, and are validly registered in another state, are allowed to remain within this state for no more than six months before being required to register their vessels with Washington State. Vessels used in a non-transitory business are excluded from this exemption.

On or before the 61st day of use, any vessel temporarily in the state must obtain an identification document from the Department of Licensing indicating when the vessel first entered the state. The identification document costs \$25 and is valid for two months.

## ESB 5514

Any moneys remaining after payment of the cost for providing the document are distributed to the counties for funding approved boating safety programs under RCW 88.02.045.

### Votes on Final Passage:

Senate	45	0
House	98	0

Effective: July 27, 1997

## ESB 5514

C 303 L 97

Authorizing fees for commodity commissions and the department of agriculture.

By Senators Morton, Rasmussen and Swecker, by request of Department of Agriculture.

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** Initiative 601 was approved by the voters at the November 1993 general election. Section 8 provides that no fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor without prior legislative approval.

Commodity commission enabling statutes provide a procedure for the establishment of a grower-funded commission to conduct advertising or production research for the benefit of the growers of that commodity. Various commodity commission statutes contain different requirements for producers to approve an increase in assessment.

**Summary:** Commodity commissions may increase fees by an amount that exceeds the fiscal growth factor without legislative approval if such fees are approved by a referendum of producers that will be paying the fee.

An increase is authorized for fees to administer the organic food certification program. Such fees are approved through the adoption of a rule by the Department of Agriculture. The annual license fee for grain warehouses is increased by \$150.

### Votes on Final Passage:

Senate	48	0
House	70	24 (House amended)
Senate	25	15 (Senate concurred)

Effective: May 9, 1997 (Sections 1-3)  
July 27, 1997  
July 1, 1998 (Sections 6 & 7)

## SB 5519

C 144 L 97

Enhancing compliance with sentence conditions.

By Senators Sellar and Oke.

Senate Committee on Human Services & Corrections  
House Committee on Criminal Justice & Corrections

**Background:** Sentencing conditions known as crime-related prohibitions are commonly imposed by courts on offenders who are placed on community supervision, community placement, partial confinement, or the sex offender sentencing alternative. These conditions prohibit conduct that directly relates to the circumstances of the crime for which the offender was convicted, such as requiring a drug offender to not unlawfully possess or use controlled substances.

Current law states that crime-related prohibitions cannot direct an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. This provision has been read by one state appellate court to mean that the Department of Corrections may not order an offender to undergo a polygraph test to determine compliance with sentence conditions. However, another state appellate court has disagreed with this position.

Trial courts are currently authorized to impose affirmative acts as conditions in specified circumstances, such as for sex offenders, who can be ordered to participate in crime-related treatment or counseling.

**Summary:** The department is authorized to require an offender to perform affirmative acts, such as drug or polygraph tests, necessary to monitor compliance with crime-related prohibitions and other sentence conditions.

### Votes on Final Passage:

Senate	45	0
House	93	5

Effective: July 27, 1997

## SB 5520

C 29 L 97

Revising provisions relating to intimidation of witnesses.

By Senator McCaslin.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Under the current law against intimidating a witness, not all prospective and former witnesses are protected from intimidation or threats. In particular, persons whom it is believed may be called in an official proceeding and persons whom it is believed may have been called if a hearing or trial had been held are not covered by the existing law. There have been incidents of threats against people in these categories.

It is felt that the inability to protect these witnesses from intimidation will undermine the pursuit of justice.

**Summary:** The current and prospective witnesses protected from intimidation include (1) an individual

endorsed as a witness, (2) an individual whom the person making the threats believes may be called as a witness, and (3) an individual whom the person making the threats believes may have information relevant to a criminal investigation or the abuse or neglect of a minor child.

Former witnesses protected from intimidation include (1) an individual who testified, (2) an individual who was endorsed as a witness, (3) an individual whom the person making the threats knew or believed may have been called as a witness if there had been a trial or hearing, and (4) an individual whom the person making the threats knew or believed may have provided information related to a criminal investigation or an investigation into the abuse or neglect of a minor child.

**Votes on Final Passage:**

Senate	44	0
House	98	0

**Effective:** July 27, 1997

## SSB 5521

C 437 L 97

Authorizing a county research service.

By Senate Committee on Ways & Means (originally sponsored by Senator Haugen).

Senate Committee on Government Operations  
Senate Committee on Ways & Means  
House Committee on Government Administration

**Background:** The Municipal Research Council is a state agency that contracts to provide municipal research and services to cities and towns. The council is composed of 18 members: (1) four members are appointed by the Speaker of the House with equal representation from each of the two major political parties; (2) four members are appointed by the President of the Senate with equal representation from each of the two major political parties; (3) one member is appointed by the Governor; and (4) nine members are appointed by the board of directors of the Association of Washington Cities.

Counties do not have a similar research council.

For years the Municipal Research Council has contracted with the Municipal Research and Services Center of Washington, a private nonprofit corporation, for the provision of these services.

Money appropriated to the Municipal Research Council is diverted from state motor vehicle excise tax receipts that otherwise would be distributed to cities on a per capita basis.

The state imposes excise taxes on liquor, a portion of which is deposited in the liquor excise tax fund. Twenty percent of the liquor excise tax receipts that are placed into this fund are distributed to counties on a per capita basis.

**Summary:** The responsibilities of the Municipal Research Council are expanded to include contracting for county research and services. The services provided to cities, towns and counties shall be in proportion to the moneys appropriated for city and town research and services, and county research and services.

The county research services account is created in the state treasury. Only so much money as is appropriated for the purposes of county research is transferred to the new account.

Moneys in the county research services account may be spent only after appropriation and only to finance the costs of county research.

The number of members on the Municipal Research Council is increased from 18 to 23. Five county-elected officials are added to the council. The Governor appoints the county officials, two from nominees submitted by the board of the Washington Association of County Officials, and three from nominees submitted by the board of the Washington State Association of Counties. Council members who are appointed as legislators or local officials lose their council positions if they no longer are legislators or local officials. A council member remains on the council after his or her term expires until a successor is appointed.

Funding is provided from liquor excise tax distributions.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 1, 1997

## SSB 5529

C 84 L 97

Providing written receipts to tenants.

By Senate Committee on Law & Justice (originally sponsored by Senators Kohl, Horn, Heavey, Schow, Fairley, Winsley and Oke).

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** Some tenants choose to pay their rent with cash. In order to have proof that they have paid the rent, such tenants need a receipt. Not having proof of rent payment can, under some circumstances, cause legal problems for the tenant.

**Summary:** A landlord is required, upon request, to provide a written receipt for any payment made by the tenant.

**Votes on Final Passage:**

Senate	49	0
House	96	1

**Effective:** July 27, 1997

SB 5530

C 362 L 97

Defining agriculture.

By Senators Morton and Rasmussen.

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** The Washington Industrial Safety and Health Act (WISHA) is administered by the Department of Labor and Industries. Under WISHA, the department has adopted a safety standard for agriculture.

The standard applies to all agricultural operations, which are defined as being operations necessary to farming and ranching, including maintenance of equipment and machinery, and planting, cultivating, growing or raising, keeping for sale, harvesting, or transporting on the farm or to the first place of processing any tree, plant, fruit, vegetable, animal, fowl, fish, or insects or products thereof. When employees are assigned to perform tasks other than those directly related to agricultural operations, the proper standard, which may be other than the agricultural standard, is to apply. The standard notes that such assignments may involve, but are not limited to, activities such as fruit and vegetable packing, logging, mining, saw-mills, etc., when the products of such activities are removed from the farm site for commercial distribution.

**Summary:** To provide guidance in determining when operations related to agricultural products are to be regulated under WISHA as agricultural operations under agricultural safety standards, and when they are to be regulated as other activities, a definition of "agriculture" is provided by statute. For this purpose, "agriculture" means farming in all its branches and includes the cultivation and tillage of the soil and dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; the raising of livestock, bees, fur-bearing animals, or poultry; and practices performed by a farmer or on a farm in conjunction with such farming operations, including preparation for market and delivery to storage, market, or carriers. "Agriculture" as used in WISHA does not mean a farmer's processing for sale or handling for sale a commodity or product grown or produced by others. "Agriculture" does not include forestry or lumbering operations.

**Votes on Final Passage:**

Senate	45	0	
House	98	0	(House amended)
Senate	40	3	(Senate concurred)

**Effective:** July 27, 1997

SB 5538

C 283 L 97

Requiring permission before disclosing the address of a child victim or witness or the address of a parent of a child victim or witness.

By Senators Long, Hargrove, Zarelli, Oke and Winsley.

Senate Committee on Law & Justice  
House Committee on Criminal Justice & Corrections

**Background:** There is currently a comprehensive scheme recognizing the rights of victims and witnesses in this state. Such rights include, but are not limited to, the right to: (a) notice of proceedings, (b) submit a victim impact statement and/or to address the court personally at a sentencing hearing, (c) the entry of an order of restitution in most felony cases, (d) be protected from harm, and (e) receive needed medical assistance. Among the rights of child victims or child witnesses of violent crimes, sex crimes, or child abuse is the right not to have their name, address or photograph disclosed without their consent and/or that of their parents or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel, or agency that provides services to children.

**Summary:** At the time of reporting a crime, or at the initial interview, child victims or child witnesses of violent crimes, sex crimes or child abuse and their parents must be informed of their rights not to have their address disclosed by any law enforcement agency, prosecutor, defense counsel or state agency without their permission.

The right of nondisclosure so created is substantive, and its intentional violation is punishable as a misdemeanor.

**Votes on Final Passage:**

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

**Effective:** July 27, 1997

SSB 5539

C 248 L 97

Changing accident report requirements.

By Senate Committee on Transportation (originally sponsored by Senators Oke and Horn; by request of Washington State Patrol).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The driver of a vehicle that is in an accident where there is an injury, death, or significant damage must file an accident report within 24 hours of the accident. It is up to the discretion of the driver to file an



accident report in other circumstances. The report is filed with the law enforcement's jurisdiction in which the accident occurred. The original is sent to the Washington State Patrol. If a law enforcement officer is present at the scene or investigates the accident, the law enforcement officer must also file an accident report, in addition to the report filed by the drivers.

**Summary:** If a law enforcement officer completes an accident report, the drivers involved in an accident do not have to file a report. The reference to a driver's report is deleted since not all accidents require an accident report to be filed. Time for filing an accident report is four days. Reference to "his" within the statute is changed to "the chief's" and "cause" of an accident on the report is changed to the "circumstances" of the accident.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** May 2, 1997

## SSB 5541

C 202 L 97

Restricting the distance a vehicle may travel in a two-way left-turn lane.

By Senate Committee on Transportation (originally sponsored by Senators Wood, Goings and Winsley; by request of Washington State Patrol).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The existing statute regarding two-way left turn lanes only states that a vehicle may not pass another in a two-way left turn lane. Drivers often travel significant distances in two-way left turn lanes before making a turn or entering traffic. This increases the risk of right-of-way collisions, especially during peak traffic hours.

**Summary:** The distance in which a vehicle can travel in a two-way left turn lane is 300 feet.

**Votes on Final Passage:**

Senate	45	3
House	91	6

**Effective:** July 27, 1997

## SB 5551

C 145 L 97

Designating significant historic places.

By Senators Prince, Fraser, Haugen, Jacobsen, McAuliffe and Winsley.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** In 1983, the Legislature passed the Historic Preservation Act to provide for the maintenance and preservation of those articles and properties which illustrate the history of the state. The Director of the Department of Community, Trade, and Economic Development (CTED) is authorized to maintain a state register identifying districts, sites, buildings, structures, and objects significant in American or Washington State history. The director also prepares information to support nominations to the state and national registers of historic places.

An Advisory Council on Historic Preservation was established. The council advises the Governor and CTED on matters relating to historic preservation. The council also reviews and recommends nominations to the state and national registers of historic places.

**Summary:** The generic term "state register" is replaced with the more specific "Washington heritage register."

Nominations made to the national register of historic places must comply with any standards promulgated by the United States Secretary of the Interior for the preservation of such properties. Nominations to the Washington heritage register must comply with the standards adopted under state statute.

The advisory council recommends nominations only for the national register of historic places.

**Votes on Final Passage:**

Senate	48	0
House	98	0

**Effective:** July 27, 1997

## SB 5554

FULL VETO

Regulating deeds of trusts.

By Senators Johnson, Roach and Finkbeiner.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** A deed of trust is a financing tool created by statute which is, in effect, a tri-party mortgage. The real property owner or purchaser (the grantor of the deed of trust) conveys the property to an independent trustee, who is usually a title insurance company, for the benefit of a third party (the lender) to secure repayment of a loan or other debt from the grantor (borrower) to the beneficiary (lender). The trustee has the power to sell the property nonjudicially in the event of default or, alternatively, foreclose the deed of trust as a mortgage. Nonjudicial foreclosure is not available if the property involved is used "principally for agricultural or farming purposes." Furthermore, the deed of trust must of its own terms provide for sale.

The Deed of Trust Act, adopted in 1965, establishes a streamlined, statutory method for foreclosing on deeds of trust. It was designed to avoid time consuming and expensive judicial foreclosure proceedings and to save time and money for both the borrower and lender.

Over the years practice in this area has departed somewhat from the strict statutory requirements, resulting in a perceived need to clarify and update the act in order to further streamline the process and preserve the efficiency and cost effectiveness for both parties originally intended.

**Summary:** The Deed of Trust Act is amended to clarify and modernize its procedures, and reflect current practices. Substitution of a new trustee upon appointment by the beneficiary without requiring resignation of the existing trustee is authorized. The trustee's duty to provide information regarding the costs and fees incurred in connection with a nonjudicial foreclosure is limited to those parties entitled to reinstate the underlying obligation.

The two time periods during which the notice of trustee's sale must be published are lengthened from five to eight days.

A trustee's sale is deemed final as soon as the bidding closes and either the beneficiary is the successful bidder or the trustee has received payment in full.

A trustee may accept a credit bid from the beneficiary up to the amount of the obligation being foreclosed, and may require payment in cash, certified check, or money order for any greater amounts. Notice is required to interested parties that excess proceeds have been deposited with the court and requires any interested party seeking to receive such proceeds to do so by motion after notice.

The provisions of the act pertaining to restraint of trustees' sales are clarified.

Interference with open and competitive bidding at a trustee's sale is a gross misdemeanor.

**Votes on Final Passage:**

Senate	48	0	
House	91	6	(House amended)
Senate	44	0	(Senate concurred)

**VETO MESSAGE ON SB 5554**

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5554 entitled:

"AN ACT Relating to deeds of trusts;"

Senate Bill No. 5554 would have amended the deed of trust act to modify certain notice and other provisions related to foreclosure sales. Although many of the provisions of the bill would have helped to clarify the law and have my support, I have concerns about the possible implications of other provisions.

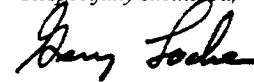
During the drafting of this bill, adequate opportunity for consideration and comment was not provided to the relevant Washington State Bar Association committees and to attorneys with active practices involving the complex law of deeds of trust and foreclosure. Several concerns have been raised about the possible unintended consequences of this bill. The law of deeds of

trust and foreclosure is fundamental, and cannot be changed without very careful consideration.

I urge the primary drafters of SB 5554 to work together with the state bar association and interested practitioners to develop legislation that has the full consideration and involvement of the range of interested parties.

For these reasons, I have vetoed Senate Bill No. 5554 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SB 5559**  
**FULL VETO**

Exempting coin-operated services of car washes from sales and use tax.

By Senators Hale, West, Loveland and Anderson.

Senate Committee on Ways & Means

**Background:** The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms.

**Summary:** A sales and use tax exemption is provided for self-service motor vehicle wash and wax facilities. The exemption includes the service of washing, waxing, and vacuuming a motor vehicle or other tangible personal property, if the purchaser or user of the service washes, waxes, or vacuums the person's motor vehicle or other tangible property at the facility, exclusively by means of automatic or manually operated coin-operated devices belonging to the vendor, without assistance from employees.

**Votes on Final Passage:**

Senate	32	13
House	54	42

**VETO MESSAGE ON SB 5559**

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5559 entitled:

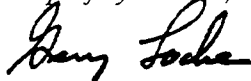
"AN ACT Relating to exempting unassisted self-service motor vehicle wash, wax, and vacuum services rendered through coin-operated devices from sales and use taxes;"

Senate Bill No. 5559 would provide a sales and use tax exemption for coin-operated self-service motor vehicle wash and wax facilities. No other coin-operated vending machines in Wash-

ington are granted an exemption from the sales and use tax (except for pay telephones on the justification that they are a necessity). It would not be good precedent to begin creating new tax exemptions for coin-operated vending machines.

For this reason, I have vetoed Senate Bill No. 5559 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SSB 5560

C 118 L 97

Changing social card game provisions.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Prentice, Snyder, Anderson and Horn).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Taverns, restaurants and other businesses primarily engaged in selling food or drink may be licensed to conduct social card games approved by the Gambling Commission.

Only those who are players, defined as those individuals who engage on equal terms with other participants and solely as contestants or bettors, are permitted to participate in card games.

Cardrooms are currently permitted to serve as custodians of player supported progressive prize contests operated in conjunction with any card game authorized by the Gambling Commission.

**Summary:** The definition of "social card games" is modified. A card room operator may be authorized to conduct card games such as house-banked or player-funded banked card games or other card games approved by the Gambling Commission.

The definition of "player" is modified to make it consistent with changes made to the definition of "social card games."

### Votes on Final Passage:

Senate	44	4
House	97	0

**Effective:** July 27, 1997

## SSB 5562

C 112 L 97

Revising provisions relating to the involuntary commitment of mentally ill persons.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Prentice, Wojahn and Deccio).

Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means  
House Committee on Children & Family Services

**Background:** Under current law, a person may be taken into custody for an involuntary 72-hour evaluation and treatment period for a mental disorder. The person may be detained if he or she presents a likelihood of serious harm to self or others, or to the property of others, or if he or she is gravely disabled. There must be a probable cause hearing within the 72 hours.

The detention can be extended for an additional 14 days of involuntary intensive treatment or 90 days of less restrictive treatment.

Upon expiration of the 14-day period, and after a full court hearing, the person may be committed for up to 90 days, or up to 180 days if criminal charges were involved.

Upon expiration of the 90 or 180-day period, a new hearing can be held for commitment of up to 180 days.

At each of these stages, further commitment can occur only if there is probable cause to believe that the person presents a likelihood of serious harm to himself or herself or others, or to the property of others, or the person is gravely disabled. The standard for "likelihood of serious harm" has been interpreted to require evidence of recent, overt acts.

When a person has been in involuntary treatment and then conditionally released or placed on a less restrictive commitment, the person can be recommitted if the person violates the terms and conditions of the release or there is a substantial deterioration in the person's functioning.

Speaking about mentally ill persons who are repeatedly hospitalized for serious mental disorders, the Washington Supreme Court in *In Re LaBelle* 107 Wn.2d 196 (1986), stated:

"By permitting intervention before a mentally ill person's condition reaches crisis proportions, RCW 71.05.020(1)(b) enables the state to provide the kind of continuous care and treatment that could break the cycle and restore the individual to satisfactory functioning. Such intervention is consonant with one of the express legislative purposes of the involuntary treatment act, which is to 'provide continuity of care for persons with serious mental disorders.' RCW 71.05.010(4)."

The court in *LaBelle* also provided careful guidelines for the kind of evidence that can be used to show that a person is gravely disabled:

"... [W]hen the state is proceeding under the gravely disabled standard of RCW 71.05.020(1)(b), it is particularly important that the evidence provide a factual basis for concluding that an individual 'manifests severe [mental] deterioration in routine functioning.' Such evidence must include recent proof of significant

loss of cognitive or volitional control. In addition, the evidence must reveal a factual basis for concluding that the individual is not receiving or would not receive, if released, such care as is essential for his or her health or safety.”

The Washington Appellate Court in *In Re Meistrell* 47 Wn. App. 100 (1987) held that “recent past mental history is relevant in determining present and immediate future mental behavior.”

**Summary:** When considering a continued commitment under a less restrictive alternative commitment after an initial 90-day commitment, evidence of repeated hospitalizations or law enforcement interventions related to the person's mental illness should be given “great weight.”

Persons who are on a less restrictive alternative commitment or conditionally released from involuntary treatment can be rehospitalized for a new commitment hearing when there is evidence of “substantial decompensation,” or “likelihood of serious harm.” These are essentially identical to the possible reasons for the original commitment.

The Joint Legislative Audit and Review Committee is directed to perform an evaluation of the effect of this act.

**Votes on Final Passage:**

Senate	45	3
House	96	1

**Effective:** July 27, 1997

**SSB 5563**

C 397 L 97

Modernizing, clarifying, and simplifying the Washington state credit union act.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Winsley, Prentice, Kohl and Kline).

Senate Committee on Financial Institutions, Insurance & Housing  
House Committee on Financial Institutions & Insurance

**Background:** A credit union is a not-for-profit financial institution created to serve groups in a field of membership. The field of membership may be one of occupation, association, or a well-defined neighborhood, community, or rural district.

Credit unions doing business in Washington can be chartered by the state or federal government. The National Credit Union Administration regulates federally-chartered credit unions, and the Department of Financial Institutions regulates state-chartered institutions. There are approximately 200 credit unions in Washington. Of this total, the state has approximately 100 state-chartered credit unions.

The Washington Credit Union Act provides for the organization and powers of state credit unions. The act also gives the Department of Financial Institutions examination

and supervision authority over state-chartered credit unions.

In 1996, the Washington Credit Union League held meetings to produce suggested revisions to the Washington State Credit Union Act. The group desired to make the act more modern, and to clarify certain sections of the act. In addition, the group wanted to provide the state regulator with more authority to regulate troubled credit unions.

**Summary:** Several changes are made to the Washington Credit Union Act.

Many definitions are deleted and new definitions are added. Insolvency, material violation of the law, unsafe and unsound condition, and unsafe and unsound practice are specifically defined.

Changes are made that enable credit union boards of directors to have more discretion. Field of membership bylaws may only be amended with the approval of the board and the director.

A statutory fiduciary duty for officers and directors is created. Officers and directors who do not fulfill their fiduciary duties can be removed or suspended. There are specific requirements for the supervisory committee to conduct an annual audit. Directors and committee members are permitted to be reimbursed for expenses for not only themselves, but for their spouses when they engage in board duties.

A credit union is authorized to borrow money up to a maximum of 50 percent of total shares, deposits, and net capital, instead of limiting borrowing to 50 percent of paid in and unimpaired capital.

Various powers are specifically authorized such as the ability to enter into lease agreements; the ability to insure the lives of members under group policies issued in the name of the credit union; the ability to offer members credit life, disability, accident, and health insurance; and the authority to establish and operate electronic facilities. Credit unions are given authority to provide for indemnification of directors and officers in their bylaws or articles of incorporation. Credit unions may limit the personal liability of directors in their articles of incorporation.

A credit union may work with community leaders to develop and prioritize efforts to improve the communities where their members reside by making investments in those communities through charitable contributions.

A lien for credit unions is created on all shares and deposits of a credit union to the extent of any obligation owed to a credit union by the shareholder or depositor.

Credit unions may make secured and unsecured loans. Credit unions are not permitted to make loans to a single borrower that exceed 25 percent of capital, instead of 2 and one-half percent of assets.

Credit unions can invest in loans held by other credit unions, loans made to members of the credit union held by other lenders, and with the approval of the Director of the Department of Financial Institutions, loans made to non-

members held by other lenders. In addition, credit unions can lend to other credit unions up to 25 percent of total shares and deposits, instead of 25 percent of paid-in and unimpaired capital.

Credit unions are required to make at least two regular reports each year showing assets and liabilities. Credit unions are required to follow generally accepted accounting principles as specified by rule of the director after January 1, 1999.

The director is given authority to remove officers, employees, directors, and other members of credit union committees for material violations of law or for engaging in unsafe and unsound practices.

Procedures are created for the director to place a credit union under supervisory direction, appoint a conservator, appoint a liquidating agent, or appoint a receiver.

The director has the power and broad administrative discretion to administer and interpret the credit union laws to facilitate the delivery of financial services to members of a credit union.

**Votes on Final Passage:**

Senate	47	0	
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** January 1, 1998  
 July 1, 1998 (Section 35)  
 January 1, 1999 (Section 50)

**ESB 5565**

C 284 L 97

Facilitating review of election procedures.

By Senators Winsley, Haugen and Hale; by request of Secretary of State.

Senate Committee on Government Operations  
 House Committee on Government Administration

**Background:** The election review staff of the Office of Secretary of State must review election procedures in counties where a mandatory recount is likely in a primary or general election for a position in the state Legislature, or a mandatory recount is likely in a statewide election or an election for federal office.

Periodically, at the direction of the Secretary of State or at the request of the county auditor, the election review staff of the Office of Secretary of State must conduct a review of election-related policies, procedures, and practices in the county after a county primary or special or general election. Each county must periodically be reviewed not less than once every four years.

**Summary:** The periodic review by the election review staff of the Office of Secretary of State must be conducted in conjunction with an election. The requirement that each county must periodically be reviewed not less than once every four years is eliminated.

**Votes on Final Passage:**

Senate	47	1
House	61	37

**Effective:** July 27, 1997

**SSB 5569**

PARTIAL VETO

C 203 L 97

Revising provisions for overtime compensation for commissioned salespersons.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Sellar and Wood).

Senate Committee on Commerce & Labor  
 House Committee on Commerce & Labor

**Background:** The overtime provision of the state Minimum Wage Act, RCW 49.46.130(1), requires an employer to pay an employee one and one-half times the employee's regular rate of pay for any hours worked in excess of 40 in a single work week. As applied to retail commissioned salespeople, the Department of Labor and Industries has interpreted the "regular rate of pay" for purposes of calculating required overtime pay to include both wages and commissions. There is concern that such application detrimentally affects both retail employers and employees.

Disagreement exists, however, as to whether the state overtime provision even applies to retail commissioned salespeople. RCW 49.46.130(2)(h) provides that the state provision does not cover "Any industry in which federal law provides for an overtime payment based on a work week other than 40 hours." There is a federal law addressing overtime pay for retail commissioned salespeople. In dispute is whether or not it is the type of law to which RCW 49.46.130(2)(h) refers such that retail commissioned salespeople are removed from the coverage of the state provision. If removed from such coverage, retail commissioned salespeople would be covered by the federal law. It provides that they need not be paid a premium for overtime as long as their regular rate of pay is in excess of one and one-half times the minimum wage and more than half of their compensation comes from commissions.

**Summary:** Language is codified which explicitly states that RCW 49.46.130 was adopted for the purpose of creating conformity between state overtime pay standards and the federal Fair Labor Standards Act, and that RCW 49.46.130(2)(h) was intended to incorporate alternative federal premium guarantee standards for retail commissioned salespeople into the state wage and hour law.

No retail or service establishment violates the overtime provision of the state Minimum Wage Act for any employee if the regular rate of pay for that employee is in excess of one and one-half times the state minimum wage

and more than half of the employee's compensation comes from commissions.

Nothing in the act is to be construed to alter the terms, conditions, or practices contained in any collective bargaining agreement in effect at the time of the effective date of the act until the expiration date of such agreement.

**Votes on Final Passage:**

Senate 33 16  
House 61 36

**Effective:** July 27, 1997

**Partial Veto Summary:** The emergency clause was vetoed, as was the section of the bill stating the purpose for which RCW 49.46.130 was originally adopted.

**VETO MESSAGE ON SB 5569-S**

April 24, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 5, Substitute Senate Bill No. 5569 entitled:

"AN ACT Relating to overtime compensation for commissioned salespersons;"

Section 1 of SSB 5569 is an attempt to interpret the legislative intent of the state wage and hour law, passed in 1975, and to thereby influence pending litigation. This is not only unfair and unjust, but also it raises constitutional questions. The power to interpret legislative intent rests with the judiciary. It is my opinion that a legislative body should not attempt to usurp that duty or interpret the intent or thoughts of a legislative body which met over twenty years ago.

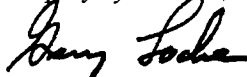
The possibility of abuse by unscrupulous employers also concerns me. Under the auspices of this bill, an employer might attempt to assign commissioned sales person to non-sales duties in order to avoid paying overtime. I will direct the Department of Labor and Industries to assess the implementation of this statute and report its impact to both the legislature and my office.

Section 5 is an emergency clause, and is unnecessary.

For these reasons, I have vetoed sections 1 and 5 of Substitute Senate Bill No. 5569.

With the exceptions of sections 1 and 5, Substitute Senate Bill No. 5569 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 5570**

C 324 L 97

Expanding tax evasion penalties.

By Senators Newhouse, Schow, Horn, Heavey, Franklin, Fraser and Oke; by request of Joint Task Force on Nonpayment of Employer Obligations.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** A significant number of potential criminal fraud cases, many involving hundreds of thousands of dollars, are routinely rejected by the AG's office because the employer never filed a quarterly report and did not, therefore, violate existing felony laws. The current statute on "failure to secure payment of compensation" makes such failure a misdemeanor with a maximum \$100 fine per day. Personnel in the Department of Labor and Industries have no recollection of anyone being prosecuted under the misdemeanor provisions. According to the Assistant Attorney General with the economic crimes unit, that unit has never prosecuted misdemeanors and local prosecutors would generally not consider a misdemeanor prosecution for this offense worth the expenditure of resources.

**Summary:** Misrepresentation of payroll or employee hours is subject to a civil penalty if made knowingly. The penalty of ten times the difference in premiums paid and premiums that should have been paid is made a maximum penalty.

It is a class C felony if an employer, with intent to evade premium payments, knowingly makes misrepresentations about payroll or employee hours, knowingly fails to secure payment of compensation, or knowingly fails to report payroll or employee hours.

On conviction, the court must order payment of premiums due, a penalty equal to the premiums due, and interest. The penalty is disbursed in equal amounts to the investigating agencies, the prosecuting authority, and the county in which the prosecution takes place.

The current misdemeanor penalty for willful failure to secure payment of compensation is repealed.

**Votes on Final Passage:**

Senate 48 0  
House 97 0 (House amended)  
Senate 46 0 (Senate concurred)

**Effective:** July 27, 1997

**SB 5571**

**PARTIAL VETO**

C 325 L 97

Providing for a single form for employers to report unemployment insurance contributions and industrial insurance premiums and assessments.

By Senators Newhouse, Schow, Anderson, Horn, Heavey, Franklin, Fraser, Long and Oke; by request of Joint Task Force on Nonpayment of Employer Obligations.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** By statute, employers (other than self-insured employers) must pay quarterly industrial insurance

premiums to the Department of Labor and Industries. The statute requires the report to include, for the period covered, a "true and accurate" payroll, the total amount paid to workers, and a segregation of employment in the different premium classes. The director also has authority to approve the sufficiency of the report and may require individual employers to file supplementary reports with the names of employees, the hours worked, the rate of pay, and the premium classes in which work was performed.

Employers paying unemployment insurance contributions must make quarterly reports to the Employment Security Department. By statute, the reports must include the amounts paid to employees, the names of all workers, the hours worked, and any other information prescribed by the commissioner.

**Summary:** The Department of Labor and Industries and the Employment Security Department must develop a plan for implementing a unified report form for industrial insurance premiums and unemployment insurance contributions.

The departments must report to the Legislature by January 1, 1998 on the plan. The agencies must also report the results of a study that cross-matches the names or UBI numbers, or both, of employers who file reports under only one law.

Under the industrial insurance law, an alien beneficiary receives the same benefits as other beneficiaries whether residing in the U.S. or not.

The Employment Security Department is to include on the annual tax notice to employers in 1997 and 1998 the following information from the previous rate year: (a) the taxable wages reported by the employer; (b) the employer's contribution rate and contributions paid; (c) the benefits charged to the employer's account and the benefits not charged under the "marginal labor force attachment" noncharging provision; and (d) the amount of contribution representing the employer's share of socialized costs. The notice must include an explanation in plain language of socialized cost.

**Votes on Final Passage:**

Senate	48	0	
House	96	0	(House amended)
Senate	29	16	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The provisions requiring the Employment Security Department to include on the annual tax notice to employers new information on taxable wages, contributions and benefits were vetoed.

**VETO MESSAGE ON SB 5571**

May 12, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 4, Senate Bill No. 5571 entitled:

"AN ACT Relating to reporting payments under unemployment insurance and industrial insurance;"

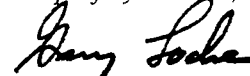
This bill requires the Department of Labor and Industries and the Employment Security Department to jointly develop a plan for implementing a unified form for reporting both industrial insurance premiums and unemployment insurance contributions by January 1, 1998, and to report that plan to the legislature.

Section 4 of SB 5571 would require the Employment Security Department to add new information to employer notification forms. This addition is not related to the primary intent of this bill, which is to address non-compliance with reporting requirements. There are many complicated issues regarding the unemployment tax structure. Rather than deal with unemployment insurance on a piecemeal basis, those issues should be considered separately, and properly dealt with in the context of the entire unemployment tax structure.

For the reason stated above, I have vetoed section 4 of Senate Bill No. 5571.

With the exception of section 4, Senate Bill No. 5571 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESSB 5574**  
**FULL VETO**

Instituting property tax reform.

By Senate Committee on Government Operations (originally sponsored by Senator Horn).

Senate Committee on Ways & Means  
Senate Committee on Government Operations  
House Committee on Finance

**Background:** When property is revalued, the county assessor sends a notice of the revaluation to the taxpayer. In most cases, this is the bank or mortgage company holding the note on the property. The taxpayer, upon the written request of the assessor, must provide the assessor with the name of the person making the payments within 30 days of the request. A notice is then also sent to this person. Willful failure to comply is subject to a civil penalty of up to \$5,000.

Property taxes are collected by the county treasurer. Tax statements are sent to the taxpayer who appears on the tax rolls. This is generally the mortgage company. The property owner does not receive a copy. The following information is required on the tax statement: the value of the real and personal property, the amount of current and delinquent property tax, and the name and amount for each district levying a tax. The state property tax levy is shown on property tax statements as being for the support of common schools.

Ballot propositions submitted to the voters for excess levies are required to set forth the amount in terms of dol-

lars to be raised, together with an estimate of the dollar tax rate necessary to produce the dollar amount.

Property taxes are due April 30 each year. If one half the tax is paid by April 30, the other half is due October 31. However, if the first half is not made on time, the entire tax is delinquent and interest is charged at the rate of 12 percent per year (1 percent per month).

**Summary:** A taxpayer who only holds a security interest in property must supply the county assessor with the name of the person making payments for property tax purposes under the security interest. Willful failure to comply is subject to a \$5 civil penalty per parcel, per year, up to \$5,000. The revaluation notice sent to the taxpayer must contain a statement informing the taxpayer that the taxpayer may call the county to request a copy of the property tax statement. The copy of this notice must clearly state in bold-face type that it is not a bill and is for informational purposes only. The revaluation notice must also contain a statement that information concerning the zoning and other land use restrictions on the property may be obtained by calling the city or county planning department.

The information required on the property tax notice mailed to the taxpayer is expanded. The tax notices must also include the property address if one exists, or the abbreviated legal description and current billing information containing each type of taxing jurisdiction levying a tax on the identified parcel, and the total amount due for each type of taxing jurisdiction. The expanded information need not appear on the property tax notice until after a major change in data systems or software used by the treasurer or until tax year 2003, whichever is earlier. Of the total amount due for each type of jurisdiction, the statement must show what is due as a result of regular property taxes, expressed as a dollar amount, and what is due as a result of voter-approved levies, including special levies and assessments, expressed as a dollar amount. In any county where the county treasurer includes multiple parcels of land on a combined tax statement to a single owner, the county treasurer is exempt from these requirements. However, a taxpayer may request a separate tax statement on any or all parcels. The name of the state property tax levy for the support of the common schools is entitled "State Property Tax Levy" and the property tax notice must not indicate its use for the support of the common schools.

Ballot propositions submitted to the voters for regular or excess levies are required to set forth the amount in terms of dollars to be raised, an estimate of the dollar tax rate necessary to produce the dollar amount, an estimate of the total tax liability for \$100,000 of taxable value, and a statement of the proposed uses of the tax levies. If the levy is for more than one year, the proposition must state this information for each year of the levy. The ballot proposition must also contain a statement as to whether a proposed levy is a new levy or a replacement levy, and if a

replacement levy, an estimate of the proposed increase or decrease of the dollar amount of the tax levy.

The tax bill is separated into a first half payment due April 30 and a second half-payment due October 31. If the first half-payment is not made on time, only that portion of the tax is delinquent rather than the entire tax bill. Interest and penalties on the first half taxes are due on October 31.

The act applies to 1998 taxes and thereafter.

**Votes on Final Passage:**

Senate	49	0	
House	90	7	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	89	0
Senate	43	1

**VETO MESSAGE ON SB 5574-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5574 entitled:

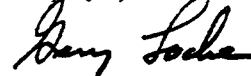
"AN ACT Relating to property tax reform;"

Engrossed Substitute Senate Bill 5574 would significantly increase the information that is required to be printed on tax statements and ballot measures, and would change how interest is charged for the late payment of property taxes.

Among other things, this bill would benefit the one percent of the state's property owners who are delinquent in paying their property taxes, and do nothing to solve the problem of higher property taxes. As written this will make it impossible for political subdivisions to submit many levy or bond issues. The bill also requires certain information to be printed on ballots, before that information can be known.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5574 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5578**

C 146 L 97

Concerning the placement and custody of at-risk youth.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove and Winsley; by request of Department of Social and Health Services).

Senate Committee on Human Services & Corrections  
House Committee on Children & Family Services

**Background:** In the past two legislative sessions, the Legislature passed two major bills concerning treatment



and processes for assisting at-risk and runaway youth. Those bills are known as the Becca Bill and Becca Too.

The Department of Social and Health Services (DSHS) has suggested various technical and clarifying amendments to the Becca bills.

When a law enforcement officer takes a child into custody, the officer must take the child to the parents, a crisis residential center (CRC), or DSHS. Upon the parent's request, the officer may take the child to a family member, responsible adult, CRC, DSHS, or a licensed youth shelter.

If no parent is available or willing to remove a child from a CRC within five days, DSHS must consider filing a child in need of services (CHINS) petition.

In a CHINS proceeding, the court may order the department to submit a dispositional plan that addresses the needs of the child.

**Summary:** A definition for a "staff secure" group care facility is created. The facility has a staffing ratio of one adult to every two children.

After an officer brings a child to DSHS, the department may place the child in a CRC or out-of-home placement for up to 72 hours, excluding weekends and holidays. The department must consider filing a CHINS petition for a child if no parent has taken the child from a CRC within the first 72 hours.

In a CHINS proceeding, the court may order a dispositional plan to be prepared that addresses the needs of the child. The plan must address the needs of the parents if the parents agree or if an out-of-home placement has been ordered at the request of the child or department, otherwise the plan may only recommend voluntary services for the parents.

**Votes on Final Passage:**

Senate	47	0
House	98	0

**Effective:** July 27, 1997

**ESB 5590**

C 398 L 97

Funding a biosolids management program.

By Senators Newhouse, Fraser, Swecker, Morton, McAuliffe and Rasmussen.

Senate Committee on Agriculture & Environment  
 Senate Committee on Ways & Means  
 House Committee on Agriculture & Ecology  
 House Committee on Appropriations

**Background:** In 1992, the Legislature directed the Department of Ecology to develop a biosolids management program. "Biosolids" is defined as municipal sewage sludge that results from the wastewater treatment process and can be beneficially recycled. Most biosolids in the state are applied to forest or agricultural lands; a small

proportion is incinerated. A biosolids fee surcharge of 5 percent is added to the wastewater discharge permit fee for all municipalities who do not incinerate their wastes.

Currently, biosolids are managed by local health departments as a solid waste. In response to the 1992 legislation, the Department of Ecology has developed a biosolids program with a new system of permitting. Under the new program, the Department of Ecology takes the lead, and local health departments have the option of seeking delegation from the state. The new program is consistent with changes that have been implemented by the Environmental Protection Agency at the federal level.

It has been suggested that the existing funding provided by the 5 percent surcharge on wastewater discharge permit fees will not be adequate to fund the new biosolids program.

**Summary:** The Department of Ecology is directed to establish annual fees for administering the biosolids permitting program. Fees are determined by the number of residences served by the permittee's biosolids management program. The fees must be established by rule.

All fees must be deposited in the biosolids permit account in the state treasury, and may be spent after appropriation to administer biosolids permits. The Department of Ecology must report to the Legislature on the use of moneys from the biosolids permit account on or before December 31 of odd-numbered years.

The Department of Ecology is directed to study the feasibility of modifying the fee schedule in areas where program authority has been delegated to local health departments.

**Votes on Final Passage:**

Senate	48	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 27, 1997

**ESB 5600**

PARTIAL VETO

C 204 L 97

Making changes to the internal operations of counties.

By Senators Hale, Haugen and Johnson.

Senate Committee on Government Operations  
 House Committee on Government Administration

**Background:** A number of provisions relating to the internal operations of counties require updating.

**Summary:** The language prescribing how county auditors pay county superior court judges is updated to provide that judges are paid in the same manner as all other elected officials are paid.

A county's appropriation account may, instead of shall, remain open for 30 days to 60 days at the auditor's discre-

tion in order to pay claims incurred prior to the close of the fiscal year.

The county legislative authority may adopt a resolution to deal with its budget concerns. The county legislative authority may adopt an ordinance or a resolution providing for a biennial budget on a particular fund or funds, with a biennium review and modification for the second year of the biennium, while other funds remain on an annual budget. Such ordinance or resolution may be repealed, and the county may revert back to an annual budget for the specific fund or funds at the end of the biennial budget.

If a county receives unanticipated funds from local revenue sources, it may provide by resolution a policy for supplemental appropriations.

Juvenile probation counselors and detention services are administered by the superior court, with three exceptions. Another exception is added, allowing any county with a population of at least 250,000 but less than 500,000 to prescribe alternative administration of these services by ordinance.

The provision for additional limitations on road fund expenditures is repealed.

**Votes on Final Passage:**

Senate	42	7	
House	76	21	
House	72	25	(House reconsidered)

**Effective:** July 27, 1997

**Partial Veto Summary:** The partial veto eliminated the section enabling counties with populations between 250,000 and 499,999 to prescribe by ordinance alternative administration of juvenile probation and detention services.

**VETO MESSAGE ON SB 5600**

April 24, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 5, Engrossed Senate Bill No. 5600 entitled:

"AN ACT Relating to internal matters for the operation of counties;"

This legislation is primarily a technical bill that deletes archaic statutes, makes other financial statutes more usable, and provides county auditors with more flexibility in the administration of their duties.

Section 5 of this bill would have allowed counties with populations between 250,000 and 499,999 to prescribe by ordinance alternative administration of juvenile probation and detention services. Such a provision would effectively allow a select few counties to give themselves exclusive control over juvenile services without the concurrence of the courts.

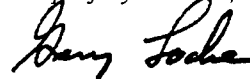
Current law already provides a process whereby counties may assume responsibility for these services upon agreement from the court. Courts should not be excluded, without their concurrence, from the decision making regarding the administration of juvenile detention and probation services. The courts see juvenile offenders who come before them firsthand, and have extensive knowledge of the types of services that are needed.

Additionally, there appears to be no legitimate reason to differentiate between counties merely on the basis of population regarding the provision of these services.

For these reasons, I have vetoed section 5 of Engrossed Senate Bill No. 5600.

With the exception of section 5, Engrossed Senate Bill No. 5600 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 5603**

C 119 L 97

Allowing parents access to student records and prohibiting their release without parental consent.

By Senators Stevens, Zarelli, Johnson, Roach, Oke and Hochstatter.

Senate Committee on Education  
House Committee on Education

**Background:** The federal Family Educational and Privacy Rights Act of 1974 (FERPA) provides access to educational records by a parent or student, and limits the transfer and disclosure of certain personally identifiable information in educational records without prior written consent, except in limited circumstances. Under FERPA, educational records include information maintained by an educational agency or institution that is directly related to a student. FERPA does not make any action unlawful, but allows federal funding to be discontinued if the act is violated.

State law also contains provisions addressing disclosure of educational records. School districts may disclose information in educational records to law enforcement and juvenile court officials to the extent permitted by FERPA. When a student transfers to a different school, the student's permanent educational record must be sent to the new school. School districts are required to provide the Department of Health access to students' proof of immunization. Districts must provide records of student visual/auditory screening if requested by the Superintendent of Public Instruction or the Department of Health.

**Summary:** The federal parental access requirement and limitation on disclosure of educational records are added to state law.

A student's parent or guardian has the right to review all the student's educational records.

A school may not release a student's educational records without the written consent of the student's parent or guardian, except as allowed under FERPA.

School districts must establish procedures that comply with FERPA, granting a student's parent or guardian access to the student's educational records and prohibiting

the release of student information without the written consent of the student's parent or guardian. Prior to obtaining the written consent, the parent or guardian must be informed as to who is requesting the information, why the request is being made, which information is requested, and how the information will be used.

**Votes on Final Passage:**

Senate	49	0
House	96	0

**Effective:** July 27, 1997

## SSB 5612

C 169 L 97

Providing qualifications for granting certificates of registration to architects.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Long, Wojahn, Hale and Horn).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** To obtain an architect's license, an applicant must pass an examination and have (1) a degree in architecture and three years' work experience, with at least two of those years under the supervision of an architect; or (2) at least eight years' work experience approved by the board, with at least four of those under the direct supervision of an architect.

**Summary:** In addition to having either a degree in architecture and three years' work experience or eight years' work experience, an applicant must have completed the requirements of a structured intern training program approved by the board. Eight years' work experience may include designing buildings as a principal activity.

**Votes on Final Passage:**

Senate	49	0
House	86	6

**Effective:** July 29, 2001

## SSB 5621

C 113 L 97

Requiring kidnappers of children to register with local law enforcement agencies upon release from custody.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Winsley, Patterson, Benton and Oke).

Senate Committee on Human Services & Corrections  
House Committee on Criminal Justice & Corrections

**Background:** Under current law, the most serious sex offenders are required to register with the county sheriff in the county of the offender's residence. The registration

period lasts for 10 years or more, depending upon the class of the offense. Kidnappers are not required to register.

The federal Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act of 1994 contains a financial incentive to encourage states to adopt registration programs for all persons convicted of kidnapping offenses and sex offenses where the victim is a minor. States that fail to implement the federal act by September 1997 will not receive 10 percent of the funds that would otherwise be allocated to that state under the Byrne Formula Grants. The state of Washington will receive \$9 - \$10 million in each of fiscal years 1997 and 1998.

**Summary:** The following offenses are added to the list of offenses for which offenders must register: (a) Kidnapping 1 and 2 and unlawful imprisonment, where the victim is a minor and the offender is not the minor's parent; and (b) sexual exploitation of a minor; dealing in depictions of a minor engaged in sexually explicit conduct; sending or bringing into the state depictions of a minor engaged in sexually explicit conduct; and patronizing a juvenile prostitute.

All of the requirements currently imposed on sex offenders who must register apply to the kidnappers and other offenders who must register under this act, including the requirement to notify law enforcement before moving. Also, law enforcement is authorized to perform community notification in appropriate cases.

**Votes on Final Passage:**

Senate	49	0
House	96	0

**Effective:** July 27, 1997

## SB 5626

C 114 L 97

Providing game transport tags at no cost in order to meet harvest management goals.

By Senators Morton, Hargrove, Swecker, Hochstatter, Stevens, Schow, Strannigan and Anderson.

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** A transport tag is required of persons who hunt black bear and cougar. The resident fee for a bear tag is \$18. A cougar tag is \$24 for residents.

The passage of Initiative 655 prohibits hound and bait hunting for bear and cougar. There is concern that bear and cougar populations will increase and cause damage to game populations and livestock.

Issuance of transport tags at no cost or waiving transport tag requirements will result in greater harvest levels for black bear and cougar.

## SB 5637

**Summary:** The Fish and Wildlife Commission may reduce the fee for black bear and cougar transport tags. If the commission decides to make black bear and cougar tags available at no cost, then the commission may waive the requirement for transport tags. Reduction in tag fees, or elimination of transport tag requirements, must be only for the purpose of achieving harvest management goals.

**Votes on Final Passage:**

Senate	45	0
House	96	0

**Effective:** July 27, 1997

## SB 5637

C 147 L 97

Removing residency requirements for county road engineers.

By Senators Haugen, Horn, Rasmussen and Winsley; by request of County Road Administration Board.

Senate Committee on Government Operations  
House Committee on Transportation Policy & Budget

**Background:** The county legislative authority of each county with a population of 8,000 or more must employ a full-time county road engineer who resides in the county. The county legislative authority of each other county (Ferry, Columbia, Wahkiakum, Garfield) must employ a county engineer on either a full-time or part-time basis, who need not be a resident of the county, or may contract with another county for the services of a county road engineer.

**Summary:** The requirement that the full-time county road engineer of each county with a population of 8,000 or more must reside in the county is eliminated.

**Votes on Final Passage:**

Senate	46	0
House	97	1

**Effective:** July 27, 1997

## SB 5642

C 115 L 97

Regulating the taking of dungeness crab in Puget Sound.

By Senators Spanel and Oke.

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** The Director of the Department of Fish and Wildlife may accept new applications for Puget Sound dungeness crab commercial fishery licenses when fewer than 200 fishers have active licenses.

There is interest in reducing the level at which new applications would be accepted to below 125 active licenses

in order to better match the size of the commercial crab fleet to the available crab resource.

**Summary:** The director may accept new applications for Puget Sound dungeness commercial crab fishing licenses when the number of licenses falls below 125.

**Votes on Final Passage:**

Senate	46	0
House	96	0

**Effective:** July 27, 1997

## SB 5647

C 42 L 97

Requiring only collected building fees of community and technical colleges to be paid to the state treasury.

By Senators Wood, Snyder, Swecker, Bauer, Zarelli, Winsley and Kohl; by request of State Board for Community and Technical Colleges.

Senate Committee on Higher Education  
House Committee on Higher Education

**Background:** In Washington, tuition fees for students attending most public colleges and universities are made up of two components: building fees and operating fees. Building fees provide part of the funding for facility repairs, renovations, and construction.

Currently, the four-year institutions of higher education must contribute their building fees to the state treasury within 35 days from the collection of those fees. The two-year institutions must contribute their building fees to the state treasury within 35 days from the start of each quarter.

**Summary:** Within 35 days from the beginning of each quarter, all collected building fees from the community and technical colleges must be paid to the state treasury.

**Votes on Final Passage:**

Senate	44	0
House	97	0

**Effective:** July 27, 1997

## SB 5650

C 426 L 97

Allowing cities to assume jurisdiction over water or sewer districts.

By Senator McDonald.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** When all of the territory of a water or sewer district is included in a city's corporate boundaries, the city may assume jurisdiction over the district. If 60 percent of a water or sewer district is included within a city, the city may assume full control over the entire dis-

tract, as long as it is not included within another city. The city may also choose to assume control over the portion of the district contained in the city, and make provision to serve any portion of the district outside of the corporate limits of the city. The district may then vote that the city assume jurisdiction over the entire district. This latter method may also be used when less than 60 percent of a water or sewer district is included within the corporate boundaries of a city.

Under any of these circumstances, the city or district, or both, may initiate dissolution proceedings for the dissolution of the district.

**Summary:** By resolution, the board of commissioners of a water-sewer district with fewer than 120 customers when this act becomes effective may determine that it is in the district's best interest for a city to assume jurisdiction of the district. None of the territory or assessed valuation of the district need be included within the city's corporate boundaries. The city must have a population greater than 100,000 on the effective date of this act.

If the city legislative body agrees to assume jurisdiction, the district and the city enter into a contract to divide up assets and liabilities. The assumption must occur by December 31, 1998.

Assessments for local improvements in a local improvement district may be pledged and applied to the payment of public loans. This authority is supplemental to any other authority of municipalities to levy, pledge, and apply special assessments.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

**Conference Committee**

House	97	0
Senate	45	0

**Effective:** July 27, 1997

## SSB 5653

C 116 L 97

Concerning the sale of salvageable timber from state-owned lands.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke and Snyder; by request of Commissioner of Public Lands and Department of Natural Resources).

Senate Committee on Natural Resources & Parks  
House Committee on Natural Resources

**Background:** Damage to timber on state trust forest land during the 1996 storms has created potentially salvageable timber that is worth thousands of dollars. Department of

Natural Resources statutes limit the sale of timber or other valuable materials to small dollar amounts. Direct sales are sales of small quantities of wood or valuable materials, such as gravel, that are exempt by law from advertising requirements. Direct sales are used only when the sale has a small environmental impact. The sale of small amounts of timber after storm or fire damage allows the department to recoup some money for the trust before insects, fungi, and other organisms degrade the value of the timber or before it is consumed by forest fire.

**Summary:** The Board of Natural Resources is given authority to establish the dollar amount for direct sales of timber of up to \$20,000 in appraised value. The board must establish procedures to assure that competitive market prices and accountability are guaranteed. The Board of Natural Resources must adopt procedures to protect cedar from theft and to guarantee wide marketing.

The direct sale of valuable materials may be sold to applicants for cash at full appraised value without notice or hearing. The value of the direct sale must not exceed \$20,000, and competitive market prices and accountability must be guaranteed.

**Votes on Final Passage:**

Senate	47	0
House	96	0

**Effective:** July 27, 1997

## ESB 5657

C 117 L 97

Authorizing the director of general administration to enter into leases of up to ten years without a review by the office of financial management.

By Senator Strannigan.

Senate Committee on Ways & Means  
House Committee on Capital Budget

**Background:** The Department of General Administration (GA) provides lease procurement services to most state agencies. The Director of GA is currently authorized to enter into leases longer than five years, subject to approval by the Director of the Office of Financial Management (OFM). Approval is contingent upon a determination that the longer term leases provide a more favorable rate, the facility is necessary for the full length of the lease term, and the facility meets GA's standards for facility efficiency. The director of GA may enter into a long-term lease greater than ten years if analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility.

As a result of a budget proviso in 1996, GA established an OFM approved policy on five to ten year leases. The policy addresses specific items including an assurance of occupancy, space utilization, cost savings, and risk

## SB 5659

analysis, among others. Documentation on these items must be provided to OFM for lease approval.

**Summary:** The Director of GA is authorized to enter into leases of up to ten years without OFM's approval. No state agency lease may be used as collateral for a publicly offered security. No state agency lease may be used as collateral for a private placement without the prior written approval of the State Treasurer. The State Treasurer must adopt rules which specify criteria necessary for approval. The Treasurer may recommend that the Governor terminate a lease that violates these provisions.

**Votes on Final Passage:**

Senate	45	0
House	96	0

**Effective:** July 27, 1997

## SB 5659

C 363 L 97

Regulating the beef commission.

By Senator Morton.

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** The Washington State Beef Commission currently has five members: one beef producer, one dairy producer, one livestock feeder, one livestock sales yard operator, and one meat packer. One additional member from the Department of Agriculture serves as an ex officio member. Appointments are made by the Director of the Department of Agriculture who is to take into consideration nominations made by the industry segment who the appointee is to represent.

**Summary:** The number of appointed members on the Washington State Beef Commission is increased from five to eight members. One additional member is appointed from the following industry segments: beef, dairy and livestock feeders. The chair may cast a vote only to break a tie vote.

**Votes on Final Passage:**

Senate	45	1	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 27, 1997

## SSB 5664

C 148 L 97

Allowing credit and debit card purchases in state liquor stores.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Horn, Bauer, Sheldon and Schow).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** In 1996, the Legislature authorized a pilot project allowing individuals to use credit and debit cards to purchase liquor in up to 20 state liquor stores. The board was directed to complete a study of the pilot project and provide a report to the Legislature by January 1, 1998.

**Summary:** Individuals are authorized to use credit or debit cards to purchase liquor at all state liquor stores, including agency liquor stores. The Liquor Control Board must provide a report to the Legislature by January 1, 1998 regarding the implementation of this act. The Liquor Control Board is authorized to utilize funds from the liquor revolving fund for the transaction fees associated with credit card purchases.

**Votes on Final Passage:**

Senate	20	28	(Senate failed)
Senate	30	19	(Senate reconsidered)
House	72	26	

**Effective:** July 27, 1997

## SSB 5668

### FULL VETO

Allowing the department of health to adopt a temporary worker housing code.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Prentice, Deccio, Sellar, Newhouse, Hale, Anderson and Winsley).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Trade & Economic Development  
House Committee on Appropriations

**Background:** In 1995 the Legislature set a new policy course in farmworker housing. The broad goals established were to streamline the regulatory process and to solve the public health problems presented by the current state of farmworker housing conditions. Several tasks were assigned to agencies, including the development of a temporary worker building code, which was assigned to the state Building Code Council. Directions to the council included developing a building code that complies with the Washington Industrial Safety and Health Act, that explores exceptions to the Uniform Building Code, that acknowledges the temporary nature of the occupancy, and that most temporary worker housing occupancy occurs during warm weather.

The council was instructed to appoint a technical advisory committee to assist in the development of the code. The technical advisory group was formed, including representation from growers, workers, building professionals,

local officials, and agency staff. The Building Code Council staff provided staff support to the group. The code has been developed on schedule and delivered to the Legislature.

The Department of Health has general licensing authority for farmworker labor camps. The Department of Labor and Industries has the responsibility for enforcing the Washington Industrial Safety and Health Act, which applies to agricultural work places. The two departments cooperate in executing their regulatory responsibilities.

**Summary:** The Department of Health is instructed to adopt a Temporary Worker Building Code by administrative rule with the participation of an advisory and oversight committee. Guidelines for adopting the code are the same guidelines that were given to the Building Code Council to develop the code. Application of the state Board of Health labor camp rules to temporary worker housing is clarified. In addition, the department is instructed that the initial Temporary Worker Building Code is to be substantially equivalent to the product developed by the Building Code Council over the last two years.

The Department of Health is given the enforcement responsibilities of the Temporary Worker Building Code. A provision is added to the Uniform Building Code chapter making it clear that temporary worker housing is to be constructed, altered and repaired according to the Temporary Worker Housing Code authorized by this act, and not under the Uniform Building Code. The Department of Health is given authority to charge fees to cover the costs of plan review and inspections.

**Votes on Final Passage:**

Senate	43	0	
House	68	27	(House amended)
Senate	46	1	(Senate concurred)

**VETO MESSAGE ON SB 5668-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5668 entitled:

"AN ACT Relating to temporary worker building codes;"

Substitute Senate Bill 5668 would direct the Department of Health to adopt, by rule, the temporary worker building code developed by the state building code council. The intent of this new code was to encourage the development of temporary worker housing by reducing the standards of the regular building code while still meeting the basic health and safety needs of workers.

It is with difficulty that I have come to the decision to veto SSB 5668. Existing living conditions for farm workers and their families are deplorable. From April through November, there are thousands of people working the harvest in the state of Washington who live without basic housing and sanitary facilities, in conditions that our society should, and does, find unacceptable. It is my firm conviction that we must resolve the need for adequate housing for the thousands of workers who are the backbone of the agricultural economy of this state.

SSB 5668 represents a commendable effort to address this issue and to improve the living conditions of farm workers. I appreciate the hard work and good intentions of the people and the state agencies responsible for developing this proposal for temporary worker housing. However, our state can do better in meeting the basic requirements for adequate housing.

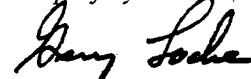
While this legislation addresses the issues related to construction of temporary housing structures, it fails to address the basic living conditions of the workers and children who would reside in these structures. There is no certainty in the requirements for insulation to protect from the heat and cold; standards for electricity; and simple provisions for occupancy, such as refrigeration for the milk and medicine for the children who will live in these structures.

Finally, SSB 5668 does not have the support or acceptance of the people it is intended to help. Farm workers and Spanish speaking people across the state have voiced their opposition to this legislation and to a building code they consider substandard. Without their support, leadership and commitment, I am convinced that there will be no solution to the housing problem for farm workers.

This veto should not be interpreted as the end of the process, but rather a call to continue from this point to improve this proposal so that we may bring forward a better solution to farm worker housing. This problem cannot be solved in one piece; there is a need for adequate affordable community housing for workers who are year-round residents, and a need for on-site housing for peak agricultural seasons. Farm workers, growers, farming communities and state agencies must come together on a more comprehensive housing proposal that results in good, quality housing for our agricultural workers.

For these reasons, I have vetoed Substitute Senate Bill No. 5668 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SB 5669**

C 170 L 97

Revising the collection of the metals mining and milling fee.

By Senator Morton; by request of Department of Revenue.

Senate Committee on Agriculture & Environment  
House Committee on Finance

**Background:** In 1994 the Legislature established a metals mining and milling fee which applied to hard rock precious metals such as gold, silver and some types of copper. The fee became effective July 1, 1995, and the Department of Revenue was the collection agency. At the present time, the Departments of Ecology and Natural Resources identify those taxpayers subject to the fee and calculate the amount due for each. Billing and collection of payments are performed by the Department of Revenue. At the present time, there are three taxpayers that are subject to the fee.

## SSB 5670

**Summary:** The transfer of responsibility for collecting and administering the fee for metals mining is transferred from the Department of Revenue to the Department of Ecology.

**Votes on Final Passage:**

Senate	43	0	
House	82	10	
House	77	15	(House reconsidered)

**Effective:** July 1, 1997

## SSB 5670

C 171 L 97

Regulating solid waste collection certificates in effect within cities and towns.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Roach; by request of Utilities & Transportation Commission).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** When a city or town incorporates, or territory is annexed into a city or town, this action cancels any existing public franchise or permit to operate a public transportation, garbage collection, or other similar public service business or facility within the limits of the incorporation or annexation. The city or town shall grant the holder of the canceled franchise a franchise to continue the business within the new incorporation or annexation for five years or the remainder of the term of the original franchise or permit, whichever is shorter.

The city or town may not allow similar or competing services unless it can show that the holder of the canceled permit or franchise cannot or will not adequately service the area at a reasonable price. The city or town may purchase the business or facilities.

If any holder of a canceled franchise or permit suffers any measurable damages as a result of the incorporation or annexation, it shall have a right of action against the city or town.

Concern has been expressed that some ambiguities exist, raising questions such as whether the Washington Utilities and Transportation Commission (UTC) has authority to continue its regulation of solid waste companies if a city or town fails to act on these issues after an incorporation or annexation.

**Summary:** Upon incorporation or annexation of an area, UTC continues to regulate solid waste collection within the limits of the city or town. The regulation continues until the city or town notifies UTC, in writing, of its decision to contract for solid waste collection or provide such services itself.

The holder of the canceled franchise or permit must be granted a franchise to continue the business within the in-

corporated or annexed area for the remaining amount of the original franchise, or seven years, whichever is shorter. The city or town must not allow similar or competing service unless it can show the franchisee is unable or unwilling to adequately service the incorporated territory at a reasonable price. The city or town may purchase the business or facilities.

Any holder of a canceled franchise who suffers any measurable damages as a result of the incorporation or annexation has a right of action against the city or town causing such damages.

Provision is made for solid waste collection in the event that the city, town, or combined city-county elects to cease controlling such service itself. UTC issues a certificate to the last holder of a valid certificate for the area reverting back to UTC regulation. UTC considers new applications if there is no previous certificate issued or the previous holder received compensation for its certificate rights.

Clarifying amendments are made.

**Votes on Final Passage:**

Senate	49	0
House	98	0

**Effective:** July 27, 1997

## ESSB 5671

FULL VETO

Requiring adoption of de facto rules.

By Senate Committee on Government Operations (originally sponsored by Senator McCaslin).

Senate Committee on Government Operations  
House Committee on Government Reform & Land Use

**Background:** Policy statements, guidelines, interpretive statements and other state agency issuances which have not undergone the statutory rule-making process do not have the force or effect of law. Agency rules which are within statutory intent and enacted in accordance with the Administrative Procedure Act (APA) do have the force and effect of law.

The regulatory reform debate articulates a perception that the distinction between rules and nonrules is blurred both within state agencies and among the public. This confusion is alleged to result in agencies enforcing nonrules as if they had the force and effect of law and the public's tacit acceptance thereof. This contributes toward the public's perception that agencies act arbitrarily.

The definition of a rule in the APA includes both rules adopted through the statutory rule-making process and agency issuances which have not undergone the statutory rule-making process but which are nevertheless used as rules are used.

**Summary:** Agency issuances are defined to include rules and any other written document that is of general applica-



bility and available to the public, with certain exceptions. Issuances are advisory only, unless they are adopted as rules under the APA or exempt under the definition of de facto rule. The term de facto rule is created to mean issuances which have not undergone the rule-making process but which are used as if they were rules. Rules are defined as issuances which have been adopted pursuant to the statutory rule-making process.

The APA is amended to conform to this definitional clarification. Other statutory references are corrected.

#### Votes on Final Passage:

Senate	39	10	
House	57	37	(House amended)
Senate	35	11	(Senate concurred)

#### VETO MESSAGE ON SB 5671-S

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5671 entitled:

"AN ACT Relating to issuances by administrative agencies;"

Engrossed Substitute Senate Bill No. 5671 would amend the Administrative Procedure Act (APA) by restructuring the definition of "rule" to cover any generally applicable document issued by an agency, such as a letter, guideline, memorandum, or policy statement, unless the document is advisory only. The bill is an attempt to address a serious regulatory issue — whether or not certain documents issued by agencies, that may be perceived as binding on the public, should be adopted as rules.

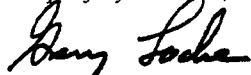
I share the concern over this issue and understand the aggravation of business owners who may be subject to sanctions for violation of standards that have not undergone formal rule making. That is unfair and not acceptable.

While I agree with these concerns, I believe that government should work to address the problem without making even more rules. Additional rule making does not always make sense from the standpoint of cost and the sheer number of decisions that need to be made in some programs on very short notice. To put all of these decisions into rules would be costly, time-consuming, and could jeopardize the health and safety of citizens.

My Executive Order 97-02, relating to regulatory improvement, addresses this concern by directing agencies to review their policy and interpretive statements or similar documents to determine if they should be adopted as rules. Agencies will consult with the Attorney General's office in this review and will modify their practices, if necessary, either administratively or through future legislation. Agencies are also directed to work with the business community and other constituent groups to identify and resolve specific problems. I firmly believe that it is wiser to address these concerns by concentrating on identifiable problem areas within each agency before embracing broader statutory change that may have unintended consequences.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5671 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

#### SB 5672

C 30 L 97

Authorizing drug-free zones around public housing authority facilities.

By Senators Strannigan, Franklin, McCaslin, Benton, Wood, Winsley, Horn, Wojahn, Kline, Kohl and Oke.

Senate Committee on Law & Justice  
House Committee on Criminal Justice & Corrections

**Background:** Current law declares a number of locations to be drug-free zones. In these zones, the penalties for drug-related crimes are doubled. The locations covered by this law are schools, school bus stops, public parks, public transit vehicles and shelters, and civic centers.

It is felt that a large number of illegal drug transactions occur in or near public housing projects, placing the residents at risk and increasing their general level of fear. However, under current law, they are not eligible for designation as drug-free zones.

**Summary:** Public housing projects designated by a local governing authority as drug-free zones are added as a new category to the current list of places where the penalties for drug-related crimes are doubled.

#### Votes on Final Passage:

Senate	46	0
House	98	0

Effective: July 27, 1997

#### SB 5674

C 263 L 97

Creating the governor's award for excellence in teaching history.

By Senators Wood, Haugen, Jacobsen, Prince, Winsley and Kohl.

Senate Committee on Higher Education  
House Committee on Education

**Background:** The Washington State Historical Society was incorporated in 1891 and designated in 1903 as a trustee organization by the state Legislature for the purpose of preserving and promoting Washington State history to its citizens. The society wishes to recognize the significant contributions of teachers and other historical organizations in their efforts to promote an understanding of history.

**Summary:** The board of trustees of the Washington State Historical Society makes the final determination regarding two annual cash awards: one to an individual teacher and one to an organization. These cash awards are raised through solicitations from private donors.

## SSB 5676

### Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 1997

## SSB 5676

C 399 L 97

Regulating real estate appraisers.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Newhouse, Schow and Anderson).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** A "brokers price opinion" is defined as an oral or written report of property value that is prepared by a licensed real estate broker or salesperson for listing, sale, purchase, or rental purposes.

According to the new real estate appraiser's law that goes into effect July 1, 1997, a real estate broker or real estate salesperson may issue a brokers price opinion as a service to a prospective seller, buyer, lessor, or lessee. The brokers price opinion may not be disseminated to a third party. The brokers price opinion must be intended solely for use by a prospective seller, buyer, lessor or lessee.

There is a lack of clarity whether a real estate broker or real estate salesperson may issue a brokers price opinion for other purposes without being a state certified or state licensed appraiser.

**Summary:** The definition of brokers price opinion is changed by removing the requirement that a brokers price opinion serve as a listing, sale, purchase, or rental purpose.

The requirement of limiting issuance of a brokers price opinion only to, and for the sole benefit of a seller, buyer, lessor, or lessee is removed.

"Federally related transaction" and "real estate related transaction," as defined in the Washington Administrative Code pertaining to the Department of Licensing's rules, are added to the chapter on real estate appraisers. Real estate brokers may receive compensation for brokers price opinions. The brokers price opinion may not be used as an appraisal in conjunction with a federally related transaction.

When a brokers price opinion is issued to someone other than a buyer, seller, lessor, or lessee, and is given as written evidence in a legal proceeding or as oral testimony, a statement must be included that the brokers price opinion is not an appraisal and has been prepared by a licensed real estate broker or salesperson who is not a licensed real estate appraiser.

The real estate appraisal law exempts only those employees who conduct appraisals or appraisal reviews for a financial institution.

### Votes on Final Passage:

Senate	45	0	
House	93	4	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 1, 1997

## SB 5681

C 172 L 97

Penalizing assault of health care personnel.

By Senators McCaslin, Hargrove, Johnson, Haugen, McAuliffe, Long and Roach.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** An assault, in its simplest form, has been defined by case law as any intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim. An act of assault may range from spitting on someone to inflicting a permanently disabling or disfiguring injury. The criminal code divides the crime of assault into four degrees, and into some specific separate crimes. The various crimes are distinguished by the state of mind of the offender, the extent of injury done to the victim, whether or not a weapon was used, and who the victim was.

Fourth-degree assault, sometimes called "simple assault," is a gross misdemeanor. Any assault that does not fall within the definition of one of the other degrees or definitions of the crime is fourth-degree assault. Third-degree assault, the lowest level of felony assault, is a class C felony. Generally, in order to amount to third-degree assault, an assault must involve causing some bodily harm with a weapon, or must involve otherwise causing bodily harm that is "accompanied by substantial pain that extends for a period sufficient to cause considerable suffering."

However, the Legislature has also provided that with respect to certain victims, an assault that would otherwise be a gross misdemeanor will be a felony. That is, with respect to these victims, there is no need to show bodily harm caused by a weapon, or accompanied by substantial pain, in order for the crime to be a felony. A fourth-degree assault becomes a class C felony if committed against:

- a public or private transit vehicle driver;
- a public or private school bus driver;
- a fire fighter;
- a law enforcement officer;
- personnel or volunteers at a juvenile corrections facility;
- personnel or volunteers at an adult corrections facility; and
- personnel or volunteers involved in community corrections.

An otherwise misdemeanor assault against one of these victims becomes a felony only if the victim is engaged in his or her job related duties at the time of the assault.

**Summary:** What would otherwise be a misdemeanor fourth-degree assault becomes a felony third-degree assault if committed against certain persons who are performing nursing or health care duties at the time of the assault. Those persons are:

- a licensed physician, licensed osteopathic physician, registered nurse, nurse practitioner, or licensed practical nurse;
- a person certified to perform emergency medical services; and
- any person who is regulated under the business and professions code, and who is employed by or contracting with a licensed hospital.

**Votes on Final Passage:**

Senate	44	1	
House	95	3	
House	94	4	(House reconsidered)

**Effective:** July 27, 1997

**SSB 5684**

C 43 L 97

Prescribing procedures for decreasing fire protection district commissioners.

By Senate Committee on Government Operations (originally sponsored by Senators Horn, Haugen and Wood).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Unless it consists wholly of personnel employed on a full-time, fully-paid basis, a fire protection district must initially have a board of three fire commissioners. Either by resolution of the commissioners or by a petition signed by 10 percent of the registered voters in the district who voted in the last general municipal election, a special election may be called to increase the number of commissioners from three to five. If the proposition receives a majority approval at the election, the commission is increased to five commissioners. A fire protection district consisting wholly of personnel employed on a full-time, fully-paid basis must have five commissioners.

There is no statutory authority allowing a five commissioner district to decrease to a three commissioner district.

**Summary:** Either by resolution of the commissioners or by a petition signed by 10 percent of the registered voters who voted in the last general municipal election, a special election may be called to decrease the board of fire commissioners from five members to three members. This procedure is not applicable to a fire protection district consisting wholly of personnel employed on a full-time, fully-

paid basis. If the fire protection district has commissioner districts, the board must pass a resolution to either re-district from five commissioner districts to three commissioner districts or eliminate the commissioner districts, before submitting a proposition to the voters to decrease the board of fire commissioners. If the proposition receives a majority approval at the election, the commission is decreased to three commissioners.

**Votes on Final Passage:**

Senate	45	0
House	97	0

**Effective:** July 27, 1997

**SB 5688**

FULL VETO

Paying the business and occupation tax by property management companies for on-site employees.

By Senators Strannigan and Johnson.

Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. Although there are several different rates, the principal rates are:

Manufacturing, wholesaling, & extracting	0.506%
Retailing	0.471%
Services	
- Business Services	2.0%
- Financial Services	1.6%
- Other activities	1.829%

The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. For example, retailers are not allowed to deduct amounts paid to wholesalers, and contractors are not allowed to deduct amounts paid to subcontractors. An exception exists for real estate brokers who may deduct commissions paid to another brokerage. Another exception exists for money received from a client as an advance or reimbursement for payments made on behalf of the client where only the client is liable for the payment.

When a business employs workers on behalf of a client, advances and reimbursement for payments to the workers are subject to B&O tax if the workers are considered employees of the business. The workers are considered employees of the person who has control over them. This is determined by who decides on hiring and firing the worker; the duration of employment; the rate, amount, and other aspects of compensation; the worker's job assignments and instructions; and other factors.

Property owners often hire property management companies to manage their real property. Frequently, the property management companies also manage the personnel who perform the necessary services at the property location. The property owners may pay the on-site per-

sonnel through the property management company. Property managers have been assessed B&O tax on these payments for on-site workers.

**Summary:** B&O tax does not apply to amounts received by a property management company for the payment of gross wages or benefits to on-site personnel from property management trust accounts that are required to be maintained by law. Workers are on-site personnel when they work at the owner's property; have duties that include leasing property units, maintaining the property, collecting rents, or similar activities; and are compensated by the property owner under a written property management agreement.

**Votes on Final Passage:**

Senate	47	0
House	67	30

**VETO MESSAGE ON SB 5688**

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5688 entitled:

"AN ACT Relating to business and occupation tax reimbursements and advances received by property management companies for the payment of wages to on-site employees;"

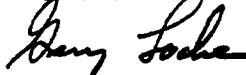
Senate Bill No. 5688 would exempt from the Business and Occupation (B&O) tax, payments received by property management companies for the payment of wages to on-site personnel.

Property management firms provide a service to property owners. Currently, these services are subject to the state's B&O tax. Under our state's tax system this is an appropriate application of the B&O tax.

This is one of many tax-cut bills that have been presented to me, the cumulative effect of which is far more than the state can afford. SB 5688 would represent a revenue loss of \$1,285,000 for the 1997-99 Biennium. This revenue could be devoted to meeting some of the challenges the state is facing in the provision of educational opportunities and health services. These are important issues that affect everyone in the state, businesses included.

For these reasons, I have vetoed Senate Bill No. 5688 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

Licensing distributors of commercial soil.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen and Swecker).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** The handling of solid wastes, including garbage, industrial wastes, construction wastes, and recyclable materials, requires a permit issued by the local health department. A permit is required for each location where solid waste is deposited onto the surface of the ground.

The Department of Agriculture licenses the distribution of fertilizers in the state. Commercial fertilizer may include any substance containing one or more recognized plant nutrients, that is claimed to have value in promoting plant growth. Other products used to improve the physical characteristics of soil that do not make any nutrient claims are not licensed by the department.

It has been suggested that wood byproducts that are used as a soil amendment should not be regulated as a solid waste.

**Summary:** A person may seek the approval of the Department of Ecology to distribute a wood byproduct as a commercial fertilizer. The written approval must certify that the use of the material as a commercial fertilizer does not pose risks to human health or the environment. The decision of the Department of Ecology may be appealed to the Pollution Control Hearings Board.

A wood byproduct that is approved by the Department of Ecology for use as a commercial fertilizer is not regulated as a solid waste, and may be registered by the Department of Agriculture as a commercial fertilizer. However, the Department of Agriculture may refuse to register a material or cancel registration of a material if the department finds evidence that use of the material as a commercial fertilizer poses unacceptable hazards to human health or the environment that were not known during the Department of Ecology's approval process.

The guaranteed analysis of any wood byproduct that is to be used as a commercial fertilizer must include the name and percentage of each soil amendment ingredient, and the total percentage of all other ingredients.

**Votes on Final Passage:**

Senate	43	2	
House	96	0	(House amended)
Senate	37	10	(Senate concurred)

Effective: July 27, 1997

**E2SSB 5710**  
**PARTIAL VETO**  
 C 386 L 97

Changing provisions relating to juvenile care and treatment by the department of social and health services.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Long, Franklin, Stevens, Prentice, Zarelli and Schow).

Senate Committee on Human Services & Corrections  
 Senate Committee on Ways & Means  
 House Committee on Children & Family Services

**Background:** The Department of Social and Health and Services (DSHS) currently has four classifications of social workers. The lower two classifications are training positions and include very few full-time employees (FTEs). The social worker III position is the classification where the majority of cases are handled. The department has approximately 800 FTEs in this position. Those positions are almost evenly split between Child Protective Services positions and Child Welfare Services positions. The department also has approximately 120 FTEs in the social worker IV position, a supervisory classification. Social workers IV also handle caseloads.

Due to the large number of referrals, the department is presently unable to offer or provide social services to families where there is a low risk of abuse or neglect. Many of these families request services which are reserved for families who present higher risks to their children. It is suggested the department create a statewide "alternative response system" to provide community-based services to low-risk families on a volunteer basis.

In a dependency fact-finding hearing, the court may remove, or continue the present placement of, a child out of the home when it finds there exists a manifest danger that the child will suffer serious abuse or neglect. The legal standard for this determination is by a "preponderance of the evidence." The federal Indian Child Welfare Act requires the court to use the higher legal standard of "by clear and convincing evidence" to justify the removal of a Native American child from his or her home.

A developmentally disabled child may be found to be dependent because the parents are unable to meet the child's special needs. This finding makes the child eligible for certain state and federally funded programs for which the child would not otherwise be eligible. These cases are handled within the Children's Administration. A recent management report on DSHS suggests the cases could be handled more efficiently within the Division of Developmental Disabilities.

The status as a "juvenile justice or care agency" gives an agency or organization special authority to receive confidential juvenile criminal records and social files. It is suggested that the Legislative Children's Oversight Com-

mittee and the children's ombudsman should be classified as juvenile justice or care agencies.

There are currently no restrictions on anonymous reporting of alleged child abuse or neglect.

Currently, many statutes refer to reports of abuse or neglect of children, adult dependent persons and developmentally disabled persons, as if those incidents have been confirmed. It is suggested the statutes should refer to "alleged" reports of abuse or neglect until the reported incidents are confirmed.

Crisis residential centers provide short-term emergency housing for runaway and at-risk youth who have experienced a family conflict and left their homes. Other community residential programs house children who have been victims of abuse or neglect. Concerns have been raised about juvenile offenders being placed in or directed to crisis residential centers and other community residential programs by DSHS upon their release from a Juvenile Rehabilitation Administration (JRA) institution.

The retail sales tax is imposed on sales of most articles of tangible personal property and some services. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location. The use tax is imposed on the use of articles of tangible personal property when the sale of the property was not subject to sales tax. The use tax generally applies when property is acquired from out of state. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Nonprofit health or social welfare organizations are exempt from sales and use taxes on items necessary for new construction of alternative housing for youth in crisis. The facility must be licensed as an agency for the care of children, expectant mothers, or the developmentally disabled. A youth in crisis is a person under 18 who is homeless, a runaway, abused, neglected, abandoned, or is suffering from a substance abuse or mental disorder. This exemption expires July 1, 1997.

A person commits the offense of unlawful harboring of a minor when the person provides shelter without the parent's consent and fails to assist law enforcement officers in locating or taking the minor into custody.

Indian tribes are considered sovereign nations within the United States and are immune from suit in state court. The scope of this immunity includes wage garnishment actions, actions to establish paternity and other child support enforcement mechanisms. Due to tribal immunity, the Division of Child Support (DCS) has a policy of refraining from issuing garnishment actions for child support against employees of Indian tribes, tribal enterprises and Indian-owned businesses on Indian reservations. The department has dealt with the sovereignty issue by negotiating intergovernmental agreements with tribes. DCS has entered into intergovernmental agreements with three Indian tribes. DCS' state-tribal relations program is pursuing agreements with several of the other Washington tribes.

**Summary: *New Social Worker Classification.*** The classification of social worker V is created within the Department of Social and Health Services, with no more than 21 positions. The positions are created to assist in the reduction of the caseloads, to provide training and mentoring for other caseworkers, and to provide hands-on training and assistance in high-risk, complex, or large cases.

Social worker V employees are assigned by the secretary to regions where the average Child Protective Services' caseloads exceed the statewide average. They must carry no more than one-third the average number of cases for social workers in the region to which they are assigned. Social worker V employees are assigned to a region as a task force consisting of at least seven employees. The assignment is time-limited and cannot exceed two years in any one region. Upon completion of the work in the region, the task force members continue to remain in contact with the coworkers from the previous assignment for a period of 12 months in order to perform additional follow-up and mentoring.

The salary and fringe benefits of all social worker V positions are determined by the Washington Personnel Resources Board. Social worker V positions are exempt positions and are not included in the Washington management service.

The secretary must develop a plan for implementation for social worker V employees. The implementation plan must be submitted to the Governor and the Legislature by September 1, 1997 and be implemented by April 1, 1998.

The social worker V classification is subject to the conditions and limitations in the budget and may not result in additional personnel being added. The provisions relating to the social worker V classification expire June 30, 2005.

***Alternative Response System.*** The department provides, by contract, alternative response systems throughout the state. The services are offered, on a volunteer basis, to families who present a low risk of child abuse or neglect. The court may order participation in public or private programs. The authority to operate the systems expires on July 1, 2005.

***Legal Standard.*** The court is required to use the standard of clear and convincing evidence to remove a child from the home, on the basis that a manifest danger exists that the child will suffer serious abuse or neglect unless removed.

***Developmentally Disabled Children.*** Developmentally disabled children may receive services through a voluntary placement agreement instead of the dependency process. Responsibility for these children is transferred to the Division of Developmental Disabilities. Funds and personnel related to this population are transferred.

***Juvenile Justice or Care Agency.*** The Legislative Children's Oversight Committee and the Office of Family and Children's Ombudsman are classified as juvenile justice or care agencies. The employees and volunteers of the om-

budsman's office are mandated reporters of abuse and neglect.

***Anonymous Reports of Abuse or Neglect.*** The department must not investigate cases of anonymous reports of abuse or neglect unless: there is a serious threat of substantial harm to the child; a crime has occurred or is about to occur involving a child as a victim; or the department within the previous three years has a "founded report" of abuse or neglect against a household member.

***Abuse and Neglect Definitions.*** "Alleged" is inserted to modify "abuse or neglect" when those terms are used in reference to reports of, as opposed to findings of, abuse or neglect. Attorney fees and costs are awarded if access to records concerning a child, involved in a dependency or termination proceeding, is wrongfully denied.

***Role of Child Protective Services (CPS).*** The role of CPS is narrowed to only its investigative functions. Child Welfare Services has the role of providing services for CPS cases. An exception is provided for small offices or offices in remote locations.

***Employee Misconduct.*** The Personnel Appeals Board must expedite employee appeals where the employee is alleged to have committed misconduct that may have placed a child at serious risk of harm. The board's decision must be issued within 45 days of the hearing, but may be extended an additional 30 days for exceptional circumstances.

***Quality Assurance Reports.*** The department must prepare an annual quality assurance report on performance outcomes, children's length of stay in out-of-home placement, adherence to permanency planning timelines, and the response time on CPS investigations.

***Controlled Substance Evaluations.*** When an in-person contact is made on a CPS investigation with a person who is alleged to have committed the abuse or neglect, there must be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor.

The department must provide appropriate chemical dependency training for persons who conduct CPS investigations. If there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department must conduct a comprehensive chemical dependency evaluation. This activity must be performed subject to available funds. No new personnel are added as a result of this section.

***Sexually Aggressive Youth.*** The Legislature intends that DSHS develop a policy for assessing sexual aggressiveness and vulnerability to sexual victimization of youth who are placed in state-operated or state-funded residential facilities.

DSHS must develop and implement a protective policy within JRA by January 1, 1998, that includes the following minimum guidelines: (1) an assessment process to identify youth with a moderate or high risk of sexually aggressive behavior; (2) an assessment process to identify youth who may be vulnerable to sexual victimization by

other youth; (3) placement criteria to avoid assigning moderate or high risk youth to the same sleeping quarters as vulnerable youth; and (4) procedures for minimizing, within available funds, unsupervised contact between moderate or high risk youth and youth assessed as vulnerable to sexual victimization.

The assessments must be completed within 30 days after youth are committed to JRA. The results of the assessments must be used as part of JRA's formal inmate classification system. JRA is prohibited from placing offenders on parole status who have been assessed as moderate to high risk for sexually aggressive behavior in a department community residential placement with another child who is a dependent, at-risk, or CHINS youth and not also an offender.

*Alternative Housing.* The expiration date is extended to July 1, 1999 for the sales and use tax exemptions for items necessary for new construction of alternative housing for youth in crisis by nonprofit health or social welfare organizations.

*Unlawful Harboring.* The crime of unlawful harboring of a minor is expanded to include situations where the person provides shelter to the minor and engages the minor in a crime or contributes to the delinquency of a minor or involves the minor in a sex offense.

*Indian Tribal Agreements.* The department is authorized and directed to enter into cooperative agreements with Indian tribes to facilitate child support enforcement. Under agreements entered into by the department, the state and a tribe may develop procedures for establishing, modifying and enforcing child support orders, paternity orders and wage garnishment orders in tribal and state court. An agreement may also outline the financial responsibilities of each entity, create alternative dispute resolution procedures, identify culturally relevant factors, develop information sharing procedures, establish termination rules and provide consequences for violating the agreement.

#### Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)

#### Conference Committee

House	98	0
Senate	44	0

**Effective:** July 1, 1997 (Sections 56 and 57)

July 27, 1997

January 1, 1998 (Sections 8-13, 21-34)

**Partial Veto Summary:** The Governor vetoed 16 sections of the bill, with the following effect:

(1) *Social Worker V.* Removed all restrictions concerning the creation and use of the new social worker V position;

(2) *Legal Standard.* Eliminated the higher legal standard relating to the placement of dependent children, as that provision was contained in ESSB 5491;

(3) *Developmentally Disabled Children.* Removed the provisions which transferred the care of certain developmentally disabled children from the Children's Administration to the Division of Developmental Disabilities;

(4) *Role of Child Protective Services.* Eliminated the section that gave the Secretary of DSHS the authority to allow CPS workers to provide both child protective and child welfare services in limited circumstances;

(5) *Unlawful Harboring.* Removed the sections which expanded the crime of unlawful harboring of a minor; and

(6) *Effective Dates.* Removed the delayed effective date for the voluntary placement agreements for developmentally disabled children.

#### VETO MESSAGE ON SB 5710-S2

May 15, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70, Engrossed Second Substitute Senate Bill No. 5710 entitled:

"AN ACT Relating to reform of social and health services;"

This legislation addresses a number of issues related to services for children and families. I support a number of the proposed measures included in this bill, including the further development of an alternative response system for families in which abuse and neglect is a matter of concern, but not yet a serious danger to the health and safety of the children.

Within the portions of E2SSB 5710 that I have signed, the bill provides the authority to create the position of "Social Worker V" in the Division of Children and Family Services ("DCFS"); further develops an alternative response system of services for families where there has been an indication of child abuse or neglect, but where the risk of danger to the children is regarded as low; provides for a voluntary placement agreement, instead of a termination of parental rights, for families of developmentally disabled children receiving intensive support services; requires the Department of Social and Health Services ("DSHS") to segregate sexually aggressive youth from other populations under the authority of Juvenile Rehabilitation Administration and DCFS; and, extends a tax credit for the construction of facilities for youth in crisis.

#### Sections 2, 3, 4, and 6

I support giving DSHS the flexibility to create a Social Worker V position and to undertake planning for the deployment of those workers. Sections 2, 3, 4 and 6 do not allow for the flexibility to implement these positions within already scarce resources.

#### Section 8

This section, relating to the placement of a child under the care of DCFS, was enacted as part of ESSB 5491, which I have already signed.

#### Sections 14 and 20

I am vetoing sections 14 and 20 which require a transfer of certain developmentally disabled children from DCFS to the Division of Developmental Disabilities ("DDD"). At the same time, I am directing DSHS to begin planning now for the transfer. DSHS will prepare for this transfer to take place as soon as April 1, 1998. When this transfer occurs, the quality of services provided to the developmentally disabled youngsters through DDD and to the child victims of abuse and neglect served by DCFS should both improve.

The transfer will require the provision of sufficient funds to permit DDD to develop the expertise to handle complicated out-

of-home placements, and the authority to transfer funds between DSHS divisions to permit an adequate level of care for the children who will be served by DDD. I request the legislature to clearly grant DSHS the necessary budget transfer authority as soon as possible in the next legislative session, so that the transfer may occur.

Sections 36 through 39

These sections attempt to correct erroneous citations in our statutes. However, a wrong citation is stated. It is better to leave in place the current interpretations than to add to the confusion. A part of the necessary corrections were made in ESSB 5491.

Section 46

This section requires child protective services and child welfare services to be provided by different employees. I have vetoed section 46 because it does not allow DSHS the flexibility to make use of a team approach to some of their cases and would also present a problem in small, rural areas where there are a limited number of staff to perform these duties.

Sections 58 and 59

These sections relate to harboring and contributing to the delinquency of a minor. They reiterate the existing law and make no meaningful changes.

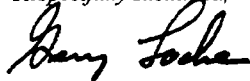
Sections 69 and 70

These sections provide effective dates of April 1, 1998 for sections 14 through 19, and July 1, 1997 for sections 7 and 20. By vetoing sections 69 and 70, and with sections 14 and 20 vetoed, sections 7 and 15 through 19 will become effective 90 days after the session. These sections are rendered unnecessary by the other section vetoes.

For these reasons I have vetoed sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70 of Engrossed Second Substitute Senate Bill No. 5710.

With the exception of sections 2, 3, 4, 6, 8, 14, 20, 36 through 39, 46, 58, 59, 69 and 70 Engrossed Second Substitute Senate Bill No. 5710 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 5713**

C 44 L 97

Defining nonprofit corporation.

By Senators Prentice, Winsley and Hale; by request of Housing Finance Commission.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Trade & Economic Development

**Background:** The Washington State Housing Finance Commission has authority to assist the development of nonprofit cultural and educational facilities through bond issues and secured loans. Some nonprofit entities served by the commission are organized as corporations and some are organized as partnerships, associations, or other legal formats.

The current statute that authorizes the Housing Finance Commission to engage in this activity refers to nonprofit "corporations" only.

**Summary:** The nonprofit facilities portion of the Washington State Housing Finance Commission enabling statute is amended to refer to nonprofit "organization" instead of nonprofit "corporation."

**Votes on Final Passage:**

Senate	47	0
House	98	0

**Effective:** July 27, 1997

**SSB 5714**

C 173 L 97

Concerning the classification of forest practices and the regulation of forest practices by state and local entities.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Rossi and Prentice; by request of Commissioner of Public Lands and Department of Natural Resources).

Senate Committee on Natural Resources & Parks

House Committee on Natural Resources

**Background:** The Department of Natural Resources (DNR) administers and enforces the rules adopted by the state Forest Practices Board. Part of the department's responsibility is to review applications for forest practices permits. Local governments have some opportunity to voice their objections while the department is reviewing an application, and local governments may appeal department approval of an application with respect to lands within the local government's jurisdiction.

Local governments play a somewhat larger role with regard to lands being converted out of forestry uses. An application for a forest practice must indicate whether any land covered by the application will be converted, or is intended to be converted, to a use other than commercial forest production within three years after completion of the forest practices. If the land is to be converted, the state's reforestation requirement does not apply, but the proposed forest practice becomes subject to applicable local government authority such as zoning and land use planning. If the forest practices application does not state that the land will be, or is intended to be converted, then for the six years following the filing of the application, the local government may deny any or all applications for permits or approvals relating to non-forestry uses of the land.

**Summary:** A portion of the Department of Natural Resources' responsibility for the administration and enforcement of forest practices regulations is transferred to local governments. By December 2001, city and county governments may administer and enforce forest practices related to the conversion of forest land to non-forestry uses in urban growth areas.

The definitions for the classes of forest practices are amended to provide that forest practices involving timber



harvest or road construction within an urban growth area designated pursuant to the Growth Management Act are Class IV forest practices. An exception to this is that Class IV designation does not apply if the forest landowner provides a written statement of intent not to convert to a use other than commercial forest product operations for 10 years, accompanied by either a written forest management plan acceptable to the department, or documentation that the property is enrolled in the state's special taxation program for forest land. The Class IV designation also does not apply if a forest landowner attaches to the forest practices application a conversion option harvest plan approved by the local government.

By December 31, 2001, each county and city must adopt ordinances or regulations setting standards for those Class IV forest practices in urban growth areas regulated by local government. The department continues to administer and enforce the rules of the Forest Practices Board until such time as the department determines that the local government has promulgated regulations that meet or exceed the Forest Practices Board standards in effect at the time the local regulations are adopted. The department's review of the initial regulations takes place upon the written request of the county or city. The department may approve or disapprove the proposed regulations in whole or in part. The department's approval or disapproval of a local government's regulations may be appealed to the Forest Practices Appeals Board. Once the new forest practices regulations are in place, the local government administers and enforces them. Until January 1, 2002, the department provides technical assistance to cities and counties that have assumed regulatory authority over their Class IV forest practices.

Other new provisions apply to those forest practices remaining under the jurisdiction of the department. The department submits to the local government a copy of a forest landowner's statement of his intention not to convert to another use. This document must be filed by the local government with the county recording officer. Lands designated as forest lands of long-term commercial significance need not be recorded due to the low likelihood of conversion. The department collects the recording fee from the applicant and reimburses the local government for the cost of the recording. For six years after the date of the application, the local government must deny any and all permits relating to non-forestry uses of the land subject to the application. The local government must also develop a process for lifting or waiving this six-year moratorium. In addition, the local government may develop an administrative process for lifting or waiving the moratorium for the purposes of constructing a single-family residence or outbuildings. The moratorium is not imposed on a forest practices application that contains an approved conversion option harvest plan unless the forest practice is not in compliance with the permit and plan. If the landowner harvests without filing a forest practices

permit application, the local government imposes the six-year moratorium.

In addition to the forest practices application fee, applicants may also be required to pay a recording fee. The application fee remains \$50 for Class II, III, and IV applications relating to the commercial harvest of timber, and the fee is also \$50 for practices in urban growth areas where the forest landowner provides either a written statement not to convert to another use for 10 years or an approved conversion option harvest plan. For applications to a local government, the fee goes to the local government and is \$500 unless a different fee is adopted by the local government.

**Votes on Final Passage:**

Senate	45	0
House	96	0

**Effective:** July 27, 1997

**SSB 5715**

C 285 L 97

Licensing orthotists and prosthetists.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Wood, Fairley, Franklin, Deccio and Winsley).

Senate Committee on Health & Long-Term Care  
House Committee on Health Care  
House Committee on Appropriations

**Background:** Orthotists design, fabricate, and fit braces and other supportive devices for patients who have injuries or diseases which interfere with normal body functions. Prosthetists make and fit artificial limbs for patients who have lost their own due to injury or disease.

Currently, there is no state regulation of these professions. There are an estimated 94 privately certified orthotists and prosthetists in the state, 44 of whom are members of the Washington Orthotic and Prosthetic Association, and 87 are certified by the American Board for Certification in Orthotics and Prosthetics. These private certifications require minimum training, approved competency testing and an approved amount of continuing education.

Orthotic and prosthetic practitioners are primarily self-employed or employed in small private practices. Orthotic and prosthetic devices are prescribed by a referring authorized health care practitioner, although there is currently no legal requirement for a prescription.

A sunrise review was conducted on a proposal to license orthotists and prosthetists. The recommendation called for these professions to be licensed.

**Summary:** Orthotists and prosthetists are regulated at the level of licensure. These practitioners may only provide treatment using a new orthoses or prostheses under an or-

der from an authorized health care practitioner. These practitioners are defined in statute.

The Secretary of Health has the authority to administer rules, determine minimum education requirements, evaluate education programs, set fees, and adopt rules implementing continuing competency requirements.

The Secretary of Health is also given authority to appoint an advisory committee composed of five members: three practitioners regulated under this act, one physician, and two public members.

Licensure application requirements are defined. They include a baccalaureate degree with appropriate course work, other formal training, a clinical internship and passing an exam.

Orthotists and prosthetists licensed under this act are regulated under the Uniform Disciplinary Act.

Clarification is provided for alternate standards for licensing.

**Notes on Final Passage:**

Senate	47	1	
House	92	6	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** July 27, 1997

December 1, 1998 (Sections 1-5 & 8-12)

**SSB 5718**  
**FULL VETO**

Protecting certain personal information in state motor vehicle and driver records.

By Senate Committee on Transportation (originally sponsored by Senators Wood, Newhouse, Haugen, Winsley and Oke; by request of Department of Licensing).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Some examples of currently authorized recipients of Department of Licensing (DOL) vehicle and driver records include: law enforcement agencies, motor vehicle manufacturers (for purposes of recall notification), insurance companies, and employers of commercial drivers.

SB 5718 implements the Federal Driver's Privacy Protection Act of 1994, which goes into effect on September 13, 1997. Lack of substantial compliance with the act subjects nonconforming states to civil penalties of not more than \$5,000 per day.

The federal act provides that personal information may be disclosed to any person or business, if DOL has provided in a clear and conspicuous manner on its forms for issuance and renewal of operator's permits, titles, registrations or identification cards that such personal information is subject to disclosure. Furthermore, the forms must provide an opportunity for the individual named in the record to prohibit the disclosure. In order to curtail the costs of

implementation of the federal act, and to afford more privacy protection, the DOL did not incorporate this optional section of the federal act in SB 5718.

**Summary:** Disclosure and use of "personal information" contained in motor vehicle and driver records is prohibited, unless explicitly authorized by law or permitted by the individual named in the record.

For purposes of this act, "personal information" means information that identifies an individual, including an individual's photograph or computerized image, Social Security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information.

Personal information must be disclosed for use in connection with matters of: (1) motor vehicle or driver safety and theft; (2) motor vehicle emissions; (3) motor vehicle alterations, recalls or advisories; (4) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and (5) removal of nonowner records from the original owner records of motor vehicle manufacturers.

Upon proof of the identity of the person requesting a record(s) and representation by such person that the use of the personal information will be strictly limited to one of the following uses, the DOL may disclose it: (1) for use by any government agency, including any court or law enforcement agency, in carrying out its functions; (2) for use in the normal course of business by a legitimate business or its agents, employees or contractors, but only (a) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and (b) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by pursuing legal remedies against, or recovering on a debt or security interest against, the individual; (3) for use in connection with any civil, criminal, administrative or arbitral proceeding in any court or government agency or before any self-regulatory body; (4) for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals; (5) for use by any insurer in connection with claims investigation activities, anti-fraud activities, rating or underwriting; (6) for use in providing notice to the legal and registered owners of towed or impounded vehicles; (7) for use by any licensed private investigative agency or licensed security service for any purpose permitted under this section; (8) for use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.); (9) for use in connection with the operation of private toll transportation facilities; (10) for public interest where the use is related to operation of a motor vehicle or to public safety, including disclosure to the news media for public

dissemination; and (11) for any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Disclosure of personal information that is required or permitted under this act is subject to payment by the requesting person to DOL of all fees for the information as prescribed by statute, regulation, administrative practice, or the terms of any contract with the requesting person. DOL may also impose other conditions regarding the identity of the requester, and to the extent required, that the use will be only as authorized, or that the consent of the person who is the subject of the information has been obtained.

A person requesting the disclosure of personal information from DOL records who knowingly misrepresents his or her identity, or knowingly makes a false statement to DOL on any required application is guilty of false swearing, a gross misdemeanor.

#### Votes on Final Passage:

Senate	47	0	
House	96	1	(House amended)
Senate			(Senate refused to concur)
House	85	13	(House receded)

#### VETO MESSAGE ON SB 5718-S

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5718 entitled:

"AN ACT Relating to restricting the release and use of certain personal information from state motor vehicle and driver records;"

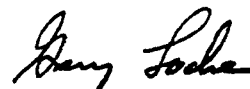
Substitute Senate Bill No. 5718 would restructure the state's motor vehicle and driver records disclosure laws so that they conform to the federal Driver's Privacy Protection Act of 1994. This measure does contain a few improvements over our existing disclosure laws. The bill does not, however, go far enough in protecting personal information of citizens that is held by the state.

This legislation would provide broad access to personal information by businesses and other organizations for uses other than those for which the information was originally collected. It specifically authorizes the disclosure of Social Security numbers, telephone numbers, medical and disability information, and other data about individuals that could be used for inappropriate and illegal purposes.

I understand that Washington, like other states, is required to have policies and practices that are in substantial compliance with the federal law and that this bill is designed to meet those requirements. I am convinced, however, that our state can temporarily comply with federal standards through adoption of rules and policies that are also not inconsistent with current state law. I have, therefore, instructed the Department of Licensing to modify its information disclosure policies to conform with the federal Driver's Privacy Protection Act until a review of this issue is completed, and legislation with greater safeguards for personal privacy can be enacted.

For these reasons, I have vetoed Substitute Senate Bill No. 5718 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

#### SSB 5721 FULL VETO

Providing tax exemptions for bare-boat charters.

By Senate Committee on Ways & Means (originally sponsored by Senators Anderson, Spanel and McDonald).

Senate Committee on Ways & Means

**Background:** Sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to sales tax. The combined state and local sales and use tax rate is between 7 percent and 8.6 percent, depending on location.

The basis of a retail sale is the use of the product or receipt of the service by the purchaser who is the consumer. All transactions involving the purchase of real or tangible personal property are considered retail sales, unless the seller receives a resale certificate from the buyer. A resale certificate allows the buyer to make the purchase exempt from sales tax. There is a 50 percent penalty for misuse of the certificate.

A bare-boat charter is a boat that is chartered to interested parties without the owner of the boat providing a captain. The owner of such a boat does not pay sales tax on the purchase of the boat because the owner is considered to be buying the boat for resale. Sales tax is due on the rental price of the charters.

A bare-boat charter owner becomes fully taxable when the vessel is used for personal use.

**Summary:** A sales and use tax exemption is provided for the purchase of vessels for use as bare-boat charters. A bare-boat charter business is one where the vessel is rented primarily to persons other than the owner.

The rental of the vessel by others is subject to retail sales tax.

The owner of the vessel is exempt from use tax on the "personal use" of the vessel as long as such use does not exceed five days per year.

The owner may use the boat for personal use if the owner pays use tax on the rental value of the boat.

Votes on Final Passage:

Senate 47 0
House 67 30

VETO MESSAGE ON SB 5721-S

May 9, 1997

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Sen-
ate Bill No. 5721 entitled:

"AN ACT Relating to bare-boat charters;"

Substitute Senate Bill No. 5721 would create a new retail sales
and use tax exemption on the purchase price of vessels placed in
"bare-boat" charter service. This would allow small number of
people to buy vessels free of sales and use tax, ostensibly for a
rental business, and then use them personally for a substantial
portion of the year. The only limitation would be that the vessels
be used for charter more than personally. It is also possible that
people would be able to buy yachts tax-free for business use, but
also get a federal tax advantage by classifying the yacht as a
personal asset.

Neither the state's economy nor consumers would benefit from
this type of tax policy.

For these reasons, I have vetoed Substitute Senate Bill No.
5721 in its entirety.

Respectfully submitted,

[Handwritten signature of Gary Locke]

Gary Locke
Governor

SSB 5724

C 174 L 97

Extending the statute of limitations for first degree theft
when the victim is a 501(c)(3) corporation.

By Senate Committee on Law & Justice (originally
sponsored by Senators Wood, Roach and Haugen).

Senate Committee on Law & Justice
House Committee on Law & Justice

Background: Theft in the first degree is a Level II, class
B felony. Assuming that the perpetrator of the theft usu-
ally and publicly resides within this state, the crime of
theft in the first degree must be prosecuted within three
years from the commission of the theft.

The three-year statute of limitations for theft in the first
degree does not consider who or what was the victim of
the theft.

It has been suggested that thefts from tax exempt cor-
porations hurt not just the corporate entity, but also the
public. Given the makeup, nature, and bookkeeping prac-
tices of tax exempt organizations, the three-year statute of
limitations may expire before the discovery of the theft.

Summary: Theft in the first degree must be prosecuted
three years from the date of the discovery of the theft
when the victim is a tax exempt corporation under

501(c)(3) rather than three years from the date of the
crime.

Votes on Final Passage:

Senate 45 0
House 96 0

Effective: July 27, 1997

ESSB 5725

C 444 L 97

Changing provisions relating to reclaimed water.

By Senate Committee on Agriculture & Environment
(originally sponsored by Senators Swecker and
McDonald).

Senate Committee on Agriculture & Environment
House Committee on Agriculture & Ecology

Background: In 1992, the Legislature enacted the Re-
claimed Water Act to encourage and facilitate water reuse.
Reclaimed water is an effluent derived from a wastewater
treatment system that has been treated so that it is suitable
for a beneficial use. The act requires a permit from the
Department of Health for commercial or industrial uses of
reclaimed water, and a permit from the Department of
Ecology for land application of reclaimed water. A re-
claimed water permit may only be issued to a unit of local
government or to the holder of a water quality discharge
permit.

A generator permitted under the Reclaimed Water Act
may distribute the water subject to provisions in the per-
mit governing the location, rate, water quality, and use.
However, the act is silent on whether this use constitutes a
new water right.

Reclaimed water may be used for surface spreading if
the reclaimed water meets the criteria for groundwater re-
charge and is incorporated into a sewer or water
comprehensive plan. There is no authority for the Depart-
ment of Ecology to authorize surface spreading of
reclaimed water that does not meet the groundwater re-
charge criteria.

Reclaimed water may be discharged into created wet-
lands if the water meets class A reclaimed water standards
and the discharge is incorporated into a sewer or water
comprehensive plan. Reclaimed water that does not meet
class A reclaimed water standards may be discharged into
created wetlands when specifically authorized by the De-
partment of Ecology in conjunction with a pilot project to
test the use of created wetlands for advanced treatment.

Water use efficiency legislation enacted in 1989 di-
rected the Department of Health to develop criteria for the
use of greywater, consistent with protection of public
health and water quality. Greywater is residential, domes-
tic wastewater from sinks, showers, or laundry fixtures.
The department has developed interim standards and is

evaluating a municipal pilot program to test the effectiveness of the standards.

**Summary:** The owner of a wastewater treatment facility that is reclaiming water with a reclaimed water permit has the exclusive right to that water. The use of reclaimed water cannot impair any existing water right downstream of the discharge point of the wastewater facility. Revenues from the use of reclaimed water may be used only to offset the costs of the wastewater utility. If the proposed use of the reclaimed water would replace potable water supplies, the use of reclaimed water must be consistent with regional water supply plans.

Reclaimed water that does not meet the groundwater recharge criteria may be used for surface percolation when the Department of Ecology, in consultation with the Department of Health, has specifically authorized this use at a lower standard.

Created wetlands defined in the Reclaimed Water Act are divided into two classes. Constructed beneficial use wetlands are wetlands constructed to replace natural wetland functions and values. Constructed treatment wetlands are wetlands constructed for the primary purpose of wastewater or storm water treatment. Both types of wetlands must be delineated according to the 1987 manual adopted by the Army Corps of Engineers.

Reclaimed water may be discharged into constructed beneficial use wetlands or constructed treatment wetlands if the water meets the class A or B reclaimed water standards. Reclaimed water that does not meet the class A or B reclaimed water standards may be discharged into constructed treatment wetlands when specifically authorized by the Department of Ecology in consultation with the Department of Health.

The Department of Ecology and Department of Health must develop and implement standards for discharging reclaimed water into constructed beneficial use wetlands and constructed treatment wetlands.

When plans are submitted to the Department of Ecology for the construction of new sewerage systems, sewage treatment or disposal systems, or improvements to those systems, they must include consideration of opportunities for using reclaimed water.

The Department of Health must develop standards, procedures, and guidelines for the reuse of greywater by January 1, 1998. The Department of Health and local health officers may permit the use of greywater under rules adopted by the department.

The Department of Health and the Department of Ecology must report on the progress of implementing the reclaimed water laws to the House Agriculture and Ecology Committee and the Senate Agriculture and Environment Committee by December 15, 1997.

**Votes on Final Passage:**

Senate	49	0	
House	96	0	(House amended)
House	96	0	(House amended on reconsideration)
Senate	41	0	(Senate concurred)

**Effective:** July 27, 1997

**SB 5732**

C 85 L 97

Delivering the cancellation notice for an insurance policy.

By Senators Benton, Heavey and Oke.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Cancellation of an insurance policy at the option of the insurance company is effective when written notice of the cancellation and the reason for cancellation are delivered or mailed to the insured at least 45 days before the effective cancellation date. For cancellations due to nonpayment of premium, the notice must be at least 10 days prior to the date of cancellation. The insurance company must also mail or deliver similar notice to mortgagees, pledgees, or other persons shown by the policy to have an interest in any loss that may occur under the policy.

**Summary:** For mortgagees, pledgees, or other persons shown by the policy to have an interest in any loss, notice of cancellation can be delivered by electronic transmittal, facsimile, or personal delivery.

**Votes on Final Passage:**

Senate	48	0
House	97	0

**Effective:** July 27, 1997

**SB 5736**

C 286 L 97

Increasing county burial costs for indigent deceased veterans.

By Senators Roach, Winsley, Oke, Benton, Schow, Snyder, Heavey, Bauer and Rasmussen.

Senate Committee on Government Operations

House Committee on Trade & Economic Development

**Background:** Each county legislative authority must inter at the expense of the county any honorably discharged veterans and the wives, husbands, minor children, widows or widowers of these veterans who are indigent. The interment must not cost more than \$300. This sum may

## SSB 5737

also be paid to relatives or friends who conduct a burial for the above-mentioned indigent.

**Summary:** The interment cost of not more than \$300 is changed to not more than a limit established by the county legislative authority.

### Votes on Final Passage:

Senate	45	0	
House	95	0	(House amended)
Senate	40	0	(Senate concurred)

**Effective:** July 27, 1997

## SSB 5737

### PARTIAL VETO

C 306 L 97

Reducing the carbonated beverage tax.

By Senate Committee on Ways & Means (originally sponsored by Senators Anderson, Loveland, Schow, Sheldon, Strannigan, Rossi, Deccio, Goings, Horn, Swecker, Rasmussen, Bauer, Hale, Roach, Johnson, Benton, West and Oke).

Senate Committee on Ways & Means

**Background:** In 1989, the Legislature passed the Omnibus Alcohol and Controlled Substances Act that imposed additional taxes on sales of wine, beer, spirits, cigarettes, carbonated beverages, and syrups used to make carbonated beverages. The revenue from these taxes is used to support programs directed toward alcohol and drug abuse by youth and adults, including increases in penalties for drug-related crimes, expanded law enforcement authority, and expanded education programs, and expanded treatment. The tax revenue was placed in the drug enforcement and education account. Under the 1989 legislation, these taxes were scheduled to expire July 1, 1995.

In 1994, the Legislature enacted the Youth Violence Prevention Act. This act made extensive changes in laws relating to youth violence prevention, drug education, and drug enforcement programs. The violence reduction and drug enforcement account (VRDE) was created to replace the existing account. The tax portions of the measure were passed as Referendum 43 on the general election ballot in November 1994.

Referendum 43 eliminated the expiration date for all of the taxes imposed in the 1989 Omnibus Alcohol and Controlled Substances Act, except the tax on carbonated beverages.

In addition, the referendum increased the rates of the cigarette tax and the tax on beverage syrups.

**Summary:** The carbonated beverage syrup tax is cut in half, and a general fund appropriation is made into the VRDE account to replace the lost revenues.

**Appropriation:** \$3,570,000 in FY 98; \$4,160,000 in FY 99.

### Votes on Final Passage:

Senate	33	16
House	61	34

**Effective:** July 1, 1997

**Partial Veto Summary:** The syrup tax is not cut, though the appropriation is retained.

### VETO MESSAGE ON SB 5737-S

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 3, Substitute Senate Bill No. 5737 entitled:

"AN ACT Relating to reducing the carbonated beverage tax;"

Section 1 of Substitute Senate Bill No. 5737 would have reduced the carbonated beverage syrup tax from one dollar per gallon to fifty cents per gallon. The funding reduction this would create in the Violence Reduction and Drug Education (VRDE) account would have been replaced by a General-Fund-State appropriation during the 1997-99 Biennium.

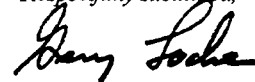
Section 1 would reduce the state's revenues by \$7.7 million in the 1997-99 biennium. In light of the other very substantial tax cuts that I have already signed into law, it is clear that the state cannot afford section 1 of SSB 5737.

Section 3 of SSB 5737 applies only to section 1, and is therefore rendered unnecessary by the veto of section 1.

The people of the state indicated their support for funding the VRDE account through the carbonated beverage syrup tax when they approved Referendum 43 in November 1994. Clearly, the dedication of those tax revenues to the VRDE account, at the rates set in Referendum 43, reflects the will of the voters of Washington. Reducing the tax and replacing it with an appropriation would jeopardize the long-term prospects of the important programs funded through the account.

For these reasons, I have vetoed sections 1 and 3 of Substitute Senate Bill No. 5737. With the exception of sections 1 and 3, Substitute Senate Bill No. 5737 is approved.

Respectfully submitted,



Gary Locke  
Governor

## ESSB 5739

### FULL VETO

Establishing when employers are required to compensate employees for employee wearing apparel.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Horn, Haugen, Schow, Rasmussen and Wood).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** The Department of Labor and Industries is authorized by statute to adopt rules establishing employment standards for the protection of the safety, health, and

welfare of employees and ensuring that wages satisfy the minimum wage prescribed by state law.

In 1976, the department adopted a rule that required the employer to furnish clothing when the employer required employees to wear uniforms or other articles of clothing of a specific style and color. However, an employer did not need to furnish required clothing that was usual and customary and that conformed to a general dress standard. Historically, businesses operated under an interpretation of the rule that did not require employers to furnish employees' clothing when the required clothing was white shirts or blouses and black slacks or skirts.

In 1992, the department issued a guideline for interpreting this regulation that considered white shirts to be usual and customary clothing that need not be furnished by the employer. However, the guideline would have interpreted black slacks or skirts to be clothing of a specific color which must be furnished by the employer. Reference to "dark" or "light" clothing was not considered to be a specific color, and such clothing was the responsibility of the employee. This guideline was challenged before the Joint Administrative Rules Review Committee and the department was strongly encouraged to take this deviation from a long-standing interpretation through the agency's formal rule-making process.

Recently, the department issued rules stating that employers who require employees to furnish uniforms or clothing with an employer designated logo, style or color (with no other color options allowed) must reimburse employees for such apparel when the cost of the clothing reduces the employee's wage rate below the state minimum wage in any payroll week. In addition, employers must pay the costs to maintain (professionally clean or repair) uniforms when such costs would reduce the employee's wage below the state minimum wage. This provision does not apply to uniforms that are "wash and wear."

**Summary:** If an employer requires an employee to wear a uniform, the employer must furnish or compensate the employee for such apparel.

A uniform is defined as: apparel of a distinctive style and quality that when worn outside the workplace clearly identifies the person as an employee of a specific employer; apparel that is marked with an employer's logo; unique apparel representing a historical time period or ethnic tradition; or formal apparel.

An employer's requirement that an employee wear apparel of a common color that conforms to a general dress code or style is not defined as a uniform. "Common colors" are defined in the bill. If an employer changes the color or colors of the apparel required to be worn by employees more than once in a calendar year, such apparel is defined as a uniform and the employer must furnish or compensate the employee for the apparel.

Personal protective equipment required for employee protection under WISHA is not defined as employee wearing apparel.

The provisions of the act do not alter the terms, conditions, or practices contained in an existing collective bargaining agreement in effect at the time this bill becomes law until such agreement expires.

#### Votes on Final Passage:

Senate	32	16	
House	75	23	(House amended)
Senate	32	13	(Senate concurred)

#### VETO MESSAGE ON SB 5739-S

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5739 entitled:

"AN ACT Relating to employee wearing apparel;"

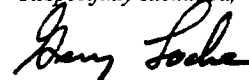
This bill would require employers to furnish or compensate employees for apparel that they require employees to wear during working hours if the apparel is distinctive, has a logo, or is an uncommon color. However, if employees are required to wear apparel of a common color that conforms to a general dress code or style, employees would have to pay for that apparel.

While I recognize that employers have the right to require presentable business attire, I also believe that the question of who pays for mandatory workplace attire does not need to be addressed in statute. This issue can be dealt with more appropriately within the existing rule-making authority of the Department of Labor and Industries. I hereby direct the Department to review its rules on workplace attire to expand beyond the current rule but not to the extent of this legislation.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5739 in its entirety.

I am hereby returning, without my approval, Engrossed Substitute Senate Bill No. 5739.

Respectfully submitted,



Gary Locke  
Governor

**2SSB 5740**

**PARTIAL VETO**

C 366 L 97

Assisting rural distressed areas.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Schow, Snyder, Morton, Hale, Prentice, Heavey, West, McDonald, Swanson, Spanel and Rasmussen).

Senate Committee on Commerce & Labor  
 Senate Committee on Ways & Means  
 House Committee on Trade & Economic Development  
 House Committee on Appropriations

**Background:** During the last decade, Washington's state-wide economy has experienced significant growth. However, certain rural counties and communities, primarily those with significant natural resource industries, have encountered severe economic problems. This has resulted in above average unemployment and low business growth, or even decline, in numerous rural communities throughout the state.

In 1991, the Legislature put in place an array of distressed area assistance programs. A primary component of this initiative was the provision of unemployment benefits (timber retraining benefits) to workers undergoing approved training. In addition, communities and individuals were provided a comprehensive set of resources including: employment and training opportunities; mortgage and rental assistance; infrastructure development; and food bank assistance. These programs are scheduled to terminate on June 30, 1997.

Community leaders in rural areas consider reauthorizing existing programs, along with the establishment of a comprehensive business assistance plan, vitally important components in addressing the economic problems of their districts. The primary components of their business development strategy include: aggressive business recruitment and assistance; effective business tax incentives; increased infrastructure development; and providing a one-stop shop, along with streamlining business zoning, permitting and regulations.

**Summary:** The Rural Area Marketing Plan (RAMP) is established with the following goals: promote the ongoing operation and expansion of businesses in rural communities; attract new businesses to rural communities, and promote the development of family wage jobs in rural communities; and promote the development of communities of excellence in rural distressed areas of Washington.

A comprehensive array of economic development programs and tax incentives are provided as follows:

**Business Assistance Programs.** The Department of Community, Trade, and Economic Development is directed to emphasize business and economic development services to rural communities, including business recruitment and assistance; business zoning and permitting assistance; regulatory and ombudsman services; assisting rural communities in the establishment of enterprise and free trade zones; and promoting the redevelopment of hazardous industrial sites in rural communities.

**Tax Incentives. Distressed County/Infrastructure Fund:** Distressed rural counties are allowed to levy an infrastructure tax of .04 percent on sales, which is credited against the state sales tax.

**Distressed County Employment/B&O Tax Credit:** The current distressed B&O tax credit program is modified as

follows: (a) the current requirement that a business must increase its workforce by 15 percent in order to meet eligibility requirements is deleted; (b) the individual company cap of \$300,000 is removed; (c) the program's termination date of July 1, 1998 is removed; and (d) \$4,000 in tax benefits per new employee is granted to companies, provided the individuals receive an annual wage of \$40,000 per year, including benefits.

**Rural Enterprise Zones.** Rural Enterprise Zones may be established by rural communities under guidelines established by the Department of Community, Trade, and Economic Development. The zones are established to facilitate streamlined zoning, permitting and regulatory requirements in order to rapidly respond to business growth opportunities. The zones receive in-depth assistance from the Department of Community, Trade, and Economic Development.

**Evaluation.** The Joint Legislative Audit and Review Committee is directed to design and implement an evaluation of the programs' effectiveness by November 1, 1999.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The following provisions were vetoed by the Governor: (a) The removal of the current requirement that a business increase its workforce by 15 percent in order to be eligible to participate in the program. This will maintain the program's existing 18 percent workforce requirement; and (b) the targeted Business Assistance Programs and services within the Department of Community, Trade, and Economic Development.

**VETO MESSAGE ON SB 5740-S2**

May 15, 1997

To the Honorable President and Members,  
 The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4, 7 and 8, Second Substitute Senate Bill No. 5740 entitled:

"AN ACT Relating to the rural area marketing plan;"

I strongly support of the goal of increasing employment in distressed areas of our state. However, I am not convinced that the mechanisms provided in sections 4, 7 and 8 are the best ways to achieve that goal.

Section 4 of the bill would delete the fifteen percent increase in average employment threshold required to qualify for the distressed areas B&O tax credit. As written in section 4, each additional position added by an employer would qualify for the tax credit. While each new job in a distressed area has value, many businesses would reap a windfall from this provision when they add employees that they would have added without the tax incentive. Some threshold that limits the tax benefit to significant expansions is necessary to make this kind of exemption fair.

Section 7 of the bill would give the director of the Department of Community, Trade, and Economic Development the authority to intervene in the day-to-day business of other state agencies. As a practical matter this approach would inevitably lead to



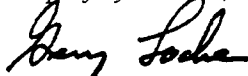
conflict and confusion. A successful regulatory reform effort targeted in distressed areas of the state will require a more thoughtful and coordinated approach. My administration is committed to this type of reform and will work with the businesses of our state to improve this process.

Section 8 of the bill would require the creation of another state management position to oversee the implementation of this act. I have vetoed this section because I believe the Coordinator of the Governor's Rural Community Assistance Team should be the focal point for economic development initiatives in rural areas of the state. Section 8 would only serve to increase bureaucracy and reduce accountability.

For these reasons, I have vetoed sections 4, 7 and 8 of Second Substitute Senate Bill No. 5740.

With the exception of sections 4, 7 and 8, Second Substitute Senate Bill No. 5740 is approved.

Respectfully submitted,



Gary Locke  
Governor

## SB 5741

C 400 L 97

Requiring a statement of permitted uses and use restrictions for condominiums.

By Senators Wood and Winsley.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** In 1989, the Legislature enacted a Comprehensive Condominium Act. The act deals with the legal creation of condominium property, the management of condominiums and the protection of condominium purchasers.

One problem area that led to adoption of the act was inadequate disclosures being made to purchasers. The act requires sellers to provide a detailed public offering statement to purchasers. The effect of errors and omissions of material issues in the public offering statement is unclear.

**Summary:** An addition is made to the list of items that must be included in a public offering statement by the seller of a condominium. The addition is a description of restrictions on owners and the declarant on renting new or existing units and any restrictions on the declarant on leasing at least a majority of the units.

A statement must also be included regarding compliance with the Housing for Older Americans Act. The state fair housing law is amended to include an updated reference to recent amendments to the federal fair housing law.

### Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 27, 1997

## ESB 5744

### FULL VETO

Extending the time for legislative review of agency rules.

By Senators Hale, Anderson, Haugen, Deccio, West and Oke.

Senate Committee on Government Operations

Senate Committee on Ways & Means

House Committee on Government Reform & Land Use

**Background:** The Regulatory Reform Act of 1995 requires the Departments of Ecology, Labor and Industries, Health, Revenue, Natural Resources, and Employment Security, the Forest Practices Board, the Office of Insurance Commissioner and the Department of Fish and Wildlife, in some circumstances, to subject significant non-emergency legislative rules to an extensive analysis prior to their adoption. This analysis includes consideration of the consequences of not adopting the rule, a cost-benefit analysis for the rule and the alternatives to the rule, comparison of the rule to existing federal and state law to check for differences and comparison of the performance requirements of the rule to ensure they are not more stringent on private entities than on public entities.

Any rule of any agency is also subject to the significant legislative rule-making requirement if made subject thereto by the Joint Administrative Rules Review Committee (JARRC) within 45 days of JARRC's receipt of the notice of proposed rule-making.

Selective legislative review of existing and proposed agency rules is conducted by JARRC. The committee determines whether an existing rule is not within the intent of the Legislature, whether a rule has not been adopted in accordance with all provisions of law and whether a policy or interpretive statement is being used in place of a rule.

**Summary:** JARRC may require that the significant legislative rule-making analysis be performed on any rule of any agency within 180 days of JARRC's receipt of the notice of proposed rule-making.

### Votes on Final Passage:

Senate	49	0
House	62	34

### VETO MESSAGE ON SB 5744

April 23, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 5744 entitled:

"AN ACT Relating to legislative review of agency rules;"

Engrossed Senate Bill No. 5744 provides the Joint Administrative Rules Review Committee (JARRC) 180 days to decide whether or not an agency must use significant legislative rule making procedures when it adopts a rule. The apparent intent of the bill is to address a workload problem by giving the JARRC extra time to decide if an agency is to use these more time consuming and costly rule making processes. Even though JARRC has never exercised this authority, members seem to believe the committee would, if it had more time.

I am not opposed to providing the committee with some additional time. However, 180 days seems excessive for a body to make a simple procedural determination, and would cause disruptions and delays in the rule making process. The current 45 day time limit was designed to have JARRC decide on the more stringent rule making requirements early enough in the process so that agencies could incorporate those tasks at the beginning of rule making. By giving JARRC 180 days to make this decision, an agency may have to delay final rule adoption for a full six months to avoid the possibility of starting the process all over again and readopting the rule under more stringent requirements. This would add a significant amount of time to a process that is already too lengthy.

Further, if an agency decides to adopt a rule before 180 days have elapsed, the legal effect of the rule, and actions taken under the rule, would be uncertain if the JARRC subsequently mandates that the rule should have been adopted under different procedures.

My office provided the Legislature with an alternative approach to deal with this issue and I will continue to be open to other options. However, I cannot accept legislation that unnecessarily complicates and prolongs the rule making process, creates uncertainty regarding the effect of rules, and may cloud the validity of rules adopted by agencies.

For these reasons, I have vetoed Engrossed Senate Bill No. 5744 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

SSB 5749

C 326 L 97

Providing for a certificate of competency as a medical gas piping installer.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Heavey, McCaslin, Winsley, Haugen and Deccio).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Under current law, a person may not engage in the trade of plumbing unless he or she has a journeyman certificate, a specialty certificate, a temporary permit, or a training certificate. A contractor may not employ a person to engage in the plumbing trade unless the person holds the appropriate certificate or permit.

Plumbing means the craft of installing, altering, repairing and renovating portable water systems, liquid waste systems, and medical gas piping in a building. Medical gas piping includes: oxygen, nitrous oxygen, high pressure nitrogen, medical compressed air, and medical vacuum systems.

The Department of Labor and Industries administers the certification programs for plumbers. Individuals desiring to obtain certification must meet certain experience or educational requirements. In addition, individuals must pass an examination which tests general knowledge and practical procedures of the trade, and familiarity with applicable plumbing codes and administrative rules of the department.

A plumbing apprentice may work in the trade if directly supervised by a certified journeyman or certified specialty plumber. An apprentice and all individuals learning the plumbing trade are required to obtain a training certificate from the department.

Currently, journeyman or specialty plumbers may install medical gas piping in buildings.

**Summary:** A "medical gas piping installer" endorsement to a journeyman plumber's certificate of competency is established.

Beginning, July 1, 1998, no individual may install or offer to install medical gas piping without holding a journeyman plumber's certificate of competency and a medical gas piping installer's endorsement. A contractor may not employ a person to install medical gas piping unless he or she holds a journeyman plumber's certificate of competency and a medical gas piping installer's endorsement.

Individuals desiring to obtain a medical gas piping installer endorsement must meet requirements established by the department, must pass an examination that contains written and practical elements related to the installation of medical gas piping, and pay the required examination fee.

The department is authorized to approve medical gas piping installer training courses and to set the fees for such courses. The department may enter into a contract with a professional testing agency to develop, administer and score the medical gas piping installer examination.

An individual who holds a training certificate and has successfully completed or is enrolled in an approved medical gas piping installer training course may work on medical gas piping systems if he or she is under the direct supervision of a certified medical gas piping installer.

**Votes on Final Passage:**

Senate	44	1	
House	88	9	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 1, 1998

## SSB 5750

C 428 L 97

Allowing commercial property casualty policies to be issued prior to filing the form or rate with the insurance commissioner.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Winsley, Prentice, Hale and Heavey).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Under current law, an insurer must file its forms and rates with the office of the Insurance Commissioner before using the forms and rates. After receiving the filing, the commissioner has a 30-day period to review it. The commissioner may extend the 30-day period for an additional 15 days if the commissioner notifies the insurance company of the extension within the 30-day waiting period. A filing meets the requirements of the law unless it is disapproved by the commissioner within the 30-day waiting period, or during the 15-day extension.

**Summary:** Commercial property casualty policies may be issued prior to filing the rates and forms with the commissioner. Commercial property casualty rates and forms must be filed within 30 days of issuing the policies. Within 30 days after receiving the filing, the commissioner may disapprove the filing. If the filing is disapproved, the commissioner must give notice to the insurance company of its failure to meet the requirements under the law and specify how the filing fails to meet these requirements. The notice must also state when the filing is no longer effective. The commissioner is permitted to extend the 30-day period an additional 15 days if notice is given to the insurer prior to expiration of the 30-day period. The disapproval of the filing does not affect any contract issued prior to the date when the commissioner states the filing is no longer effective, except that the insurer must issue a revised form and rate to comply with the commissioner's disapproval. If a hearing is held because the commissioner rejects the filing, the burden of proof is on the commissioner to show how the filing failed to meet the legal requirements for approval.

**Votes on Final Passage:**

Senate	43	0	
House	67	30	(House amended)
Senate	38	8	(Senate concurred)

**Effective:** July 27, 1997

## SB 5754

C 205 L 97

Regulating boxing, kickboxing, martial arts, and wrestling.

By Senators Horn, Franklin and Newhouse; by request of Department of Licensing.

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** In 1995, the Department of Licensing (DOL) formed an ad hoc advisory committee to evaluate and propose regulations for boxing, kickboxing, wrestling, and martial arts. The committee compared existing regulations of the various sports with those of other states such as California and Nevada, and recommended changes to clarify the terminology, raise the safety and health standards, and update the administration and regulation of participants and events.

**Summary:** "Kickboxing" and "martial arts" are defined and included within the definition of professional boxing. "Amateur" and "tough man/rough man contest or competitions" are defined.

DOL may issue administrative penalties to a licensee in lieu of or in addition to suspension, denial or revocation of a license. The department may also establish and assess penalties for violations of any regulation in the chapter.

A boxing promoter is permitted to file one bond, to be determined by the department, for the license period instead of filing one for each event. The authority to approve bonds is removed from the Attorney General. A promoter must obtain proof of medical insurance for the entire license period, with its amount to be determined by the department but not less than \$50,000. Such proof of medical insurance must be shown to the department at least 72 hours before each event.

The promoter must pay a minimum tax of \$25 for gross receipts from each live event. The number of untaxed complimentary tickets is limited to 5 percent of the total tickets sold per event location, not to exceed 300 tickets.

The promoter is responsible for travel expenses of the inspectors and physicians.

Boxing contests are limited to 12 rounds. A physician must conduct a pre-fight physical examination 24 hours before a fight. DOL is authorized to set nonrefundable license fees for wrestling participants, matchmakers, physicians, inspectors, judges, timekeepers and announcers.

DOL has the authority to request further information from participants to ensure the classification of an event is accurate.

DOL may revoke or deny a license to a licensee convicted under the Uniform Controlled Substances Act, or tests positive for illegal use of a controlled substance.

Written complaints regarding an applicant's or a licensee's unprofessional conduct may be submitted to the department for review and investigation. The complainant is immune from suit in any civil action related to the filing or contents of the complaint. The licensee may request a hearing with the department. If DOL finds that the applicant or licensee has committed unprofessional conduct, then the department may deny, revoke or suspend his or her license; require payment of a fine; or take other corrective action deemed appropriate to the violation. The director of DOL may investigate and issue a cease and desist order to a person who is not licensed to engage in a regulated boxing, kickboxing, wrestling, or martial arts event.

Unprofessional conduct is defined to include conviction of a gross misdemeanor, felony or commission of an act involving moral turpitude, acts of misrepresentation in the furnishing of information for a license, and false advertising.

The director and others acting under his or her authority are immune from suit in an action based on disciplinary proceedings or other official acts performed in the course of their duties.

**Votes on Final Passage:**

Senate 45 4  
House 86 9

Effective: July 27, 1997

**SSB 5755**

C 86 L 97

Authorizing service of process by posting in disputes involving mobile home landlords and tenants.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senator Swecker).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Law & Justice

**Background:** The Residential Landlord-Tenant Act governs the legal relationship between landlords and tenants in most types of residential occupancy. One of the exceptions is the Mobile Home Landlord-Tenant Act which appears in a separate chapter.

Both the district and superior courts have jurisdiction over landlord-tenant disputes governed by the act. Service of summons on a defendant can be accomplished in the usual method of personal service, or if after the exercise of due diligence the defendant cannot be personally served, the following alternative methods are authorized: (1) the summons and complaint can be posted on the premises; or (2) copies of the summons and complaint may be mailed by both regular and certified mail to the defendant's last known address.

If these alternative methods of service are used, the court's jurisdiction is limited to restoring possession of the premises to the plaintiff.

**Summary:** The alternative service provisions of the Residential Landlord-Tenant Act are made applicable to the Mobile Home Landlord-Tenant Act.

**Votes on Final Passage:**

Senate 49 0  
House 97 0

Effective: July 27, 1997

**ESSB 5759**

C 364 L 97

Changing sex offender risk level classification and public notification procedures.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Zarelli, Franklin, Winsley, Oke and Roach).

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

House Committee on Criminal Justice & Corrections

House Committee on Appropriations

**Background:** Under current law, local law enforcement agencies and officials are authorized to make public notifications regarding the release of sex offenders from confinement.

Each local jurisdiction makes its own determination of how to classify a sex offender and what type of public notification is appropriate under the circumstances. Generally, sex offenders are classified into risk Level I, II, or III, depending on the local jurisdiction's assessment of the risk posed by the offender to the community.

Concerns have been raised about the variations in risk level classification decisions and the types of public notifications that are made across the state, particularly when an offender moves from one jurisdiction to another.

Additional concerns have been raised about the difficulty local jurisdictions have in obtaining all the information needed to make an informed decision about the appropriate risk level classification. It has been suggested that, under most circumstances, the releasing agency has more complete information about the offender and is in a better position to assign an appropriate classification.

**Summary:** The Department of Corrections (DOC), the Juvenile Rehabilitation Administration (JRA), and the Indeterminate Sentence Review Board (ISRB) are required to classify all sex offenders releasing from their facilities into risk Levels I (low risk), II (moderate risk), or III (high risk) for the purposes of public notification.

These releasing agencies must issue to appropriate law enforcement agencies narrative notices that contain the

identity, criminal history behavior, and risk level classification for each sex offender being released, and for Level II and III offenders, the reasons underlying the classification.

Local law enforcement agencies are required to consider the state classification level when assigning their own level for public notification purposes. When a local jurisdiction assigns a different risk classification level than the one assigned by the releasing agency, the local jurisdiction must notify the releasing agency of its decision and its reasons for doing so.

Immunity from civil liability is extended to the classification decisions made by a releasing agency or a local law enforcement agency, unless the decision is made with gross negligence or in bad faith. The decision of a local law enforcement agency to classify a sex offender differently than the releasing agency shall not, by itself, be considered gross negligence or bad faith.

The nature and scope of permissible public notifications are identified for each risk level classification. Notifications for Level I sex offenders may include the release of information to other appropriate law enforcement agencies and, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides.

Notifications for Level II sex offenders may include public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides.

Notifications for Level III sex offenders may also include dissemination of relevant, necessary and accurate information to the general public.

DOC is required to administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. The committee must have access to all relevant information in the possession of public agencies.

The Washington Association of Sheriffs and Police Chiefs is directed to develop a model policy for public notifications by December 1, 1997. The association must consult with specified stakeholder groups. The issues to be included in the policy are specified, including, among other things, the contents and forms for community notification documents.

DOC, JRA, and the ISRB are required to jointly develop the standards for determining what constitutes low, moderate, and high risk for the purposes of classifying offenders as Level I, II, or III.

DOC, DSHS, and the ISRB must each prepare a report to the Legislature by December 1, 1998, indicating how many sex offenders have been released and assigned to each risk level classification. The report must also identify the number, jurisdictions, and circumstances where

local law enforcement agencies made different risk level classifications than the releasing agency.

Local jail administrators are required to obtain from sex offenders in local jails the city, in addition to the county, where the inmate intends to reside upon release. The administrator must then notify the sheriff of the county and, where applicable, the police chief of the city where the offender intends to reside upon release.

Other technical and clarifying changes are made.

**Votes on Final Passage:**

Senate	43	0	
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** July 27, 1997

**ESSB 5762**

C 87 L 97

Benefiting the equine industry.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Heavey, West, Schow, Deccio, Rasmussen, Brown, McCaslin and Goings).

Senate Committee on Commerce & Labor  
House Committee on Trade & Economic Development

**Background:** Parimutuel wagering on thoroughbred horse racing has declined from a high of \$240 million in 1992 to \$144 million in 1996. The horse population has declined, as have the purses paid at the three major race tracks in this state, during this time period. As a result, great concern exists regarding the long-term viability of the thoroughbred racing industry in this state.

Full card simulcasting (importing and exporting simulcasts of horse races with common pool wagering) has been utilized by all other states that operate live horse racing. These states allow simulcasting in an effort to increase revenues generated by parimutuel wagering, thereby increasing the purses and ultimately the horse population necessary to sustain the live racing industries in these states.

Currently, race tracks and satellite facilities in this state are permitted to simulcast one out-of-state horse race per day of national or regional interest and the Breeder's Cup Day of races.

Common pool wagering (i.e. co-mingling of wagers from in- and out-of-state bettors) is not permitted under current law.

Currently, race tracks running live meets are authorized to simulcast their live races to other race tracks and satellite facilities in this state, under certain conditions. The fee charged by the sending track for the simulcasting of such races is currently negotiated by the parties sending and receiving these simulcasts.

Currently, one tenth of 1 percent of all parimutuel wagering is deposited into the nonprofit purse fund. This

fund is used to enhance purses at nonprofit race meets in this state. Any amounts received in excess of \$150,000 a year are remitted to the general fund.

**Summary: *Simulcasting of Out-of-State Races.*** A class 1 racing association may be authorized by the Horse Racing Commission to simulcast out-of-state races to its racing facility. A class 1 racing association is defined as a licensee who, on an annual basis, conducts at least 40 days of live racing within four successive calendar months.

A class 1 racing association running a live race meet may simulcast in one out-of-state program of races (approximately 11 races), plus one race of national or regional interest, per day. On non-live race days, the association may bring in up to two out-of-state programs of races (approximately 22 races), a maximum of two days per week. An association may not operate more than five days per week. Out-of-state races must not be simulcast to satellite facilities but only to the grandstands of class 1 facilities. However, the current practice of permitting the simulcast of one race per day of national or regional interest (including the Breeder's Cup Day of races) to satellite facilities is continued.

A class 1 racing association that is not running a live race meet may simulcast as many out-of-state programs of races as it can during a 12-hour period of time. An association simulcasting out-of-state races must also accept simulcasts of all in-state live races. An association may not operate more than five days per week.

Common pool wagering on out-of-state races is required. A racing association may adjust the takeout rate and breakage rate on out-of-state races to achieve a common pool rate with other participants in the wagering pool.

A racing association simulcasting out-of-state races must contribute 50 percent of the parimutuel revenues (less the simulcast costs) generated on such races to fund the horsemen's purse account established for live races at the association's track.

***Simulcasting of In-State Races.*** A class 1 racing association may be authorized to transmit simulcasts of its live races to locations outside the state of Washington. Common pool wagering may be conducted on such races.

A racing association may simulcast its live races to other tracks in the state. A track receiving such simulcasts must pay a fee of 5.5 percent of the gross parimutuel receipts to the sending track. A track receiving such simulcasts must contribute 50 percent (less the cost of purchasing the simulcast) of its share of the parimutuel receipts to the horsemen's purse account established for live races at the association's track.

Fifty percent of the fees (less the simulcast costs) generated by an association that simulcasts its races to out-of-state locations or in-state tracks must be deposited into the horsemen's purse account established for live races at the association's track.

A racing association may simulcast its live races to in-state satellite facilities that are not located within 60 miles of another racing facility conducting a live meet. However, live races may be simulcast to satellite facilities that are located within 60 miles of another racing facility that is not conducting a live race meet.

***General Provisions.*** The intent and goals of the provisions authorizing the simulcast of in-state and out-of-state races are statutorily established. These include the following: to preserve the state horse breeding and racing industries; to promote fan attendance at class 1 racing facilities in the state; and to prohibit the expansion of gaming beyond those activities already authorized.

The Joint Legislative Audit and Review Committee (JLARC) is directed to study the impact of the simulcasting provisions of the act and the removal of the cap on the nonprofit purse account on fan attendance at the class 1 race tracks, purses at class 1 race tracks and nonprofit race tracks in the state, the number of horses running at class 1 race tracks, and the horse breeding population in the state. JLARC may provide recommendations to the Legislature regarding modifications to state law that would improve the attainment of the goals outlined in the act. A report must be completed by June 30, 2000.

***Nonprofit Purse Fund.*** The current \$150,000 cap on funds deposited into nonprofit purse fund is eliminated.

**Votes on Final Passage:**

Senate	33	16	
House	84	14	(House amended)
Senate	32	17	(Senate concurred)

**Effective:** April 19, 1997

**SSB 5763**

C 304 L 97

Prohibiting the taxation of internet service providers as network telephone service providers.

By Senate Committee on Energy & Utilities (originally sponsored by Senators Finkbeiner, Brown, Rossi, McAuliffe, Roach, Kohl, Jacobsen, Hochstatter, Haugen, Goings and West).

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities  
House Committee on Finance

**Background:** The "Internet" is the term used to describe the worldwide network of connected computer networks. Usage of the Internet continues to experience rapid growth.

Some companies provide access to the Internet as a specific line of business or as their main business product. There is some speculation that because these companies connect customers to the more extensive computer network through telephone lines, it could be interpreted that they provide "network telephone service." In the context

of being considered a utility, network telephone service is subject to city privilege taxes.

**Summary:** Until July 1, 1999, cities and towns may not impose any new taxes or fees specific to Internet service providers, but may tax Internet service providers under generally applicable business taxes at a rate not to exceed the rate applied to a general service classification.

The provision of Internet services is classified as a selected business service activity for the purposes of applying the business and occupation tax. If that section of law is repealed, then the provision of Internet services will be placed under the general service business and occupation tax classification.

Existing statutes are clarified to indicate that the provision of Internet services does not constitute network telephone service.

**Votes on Final Passage:**

Senate	49	0	
House	97	1	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** May 9, 1997

## SSB 5768

C 287 L 97

Creating supported employment programs.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Horn, Thibaudeau, Winsley, Anderson, Oke, McDonald, Wood, Fairley, Wojahn and Heavey).

Senate Committee on Commerce & Labor  
House Committee on Government Administration

**Background:** A joint report by the Department of Personnel and the Department of Social and Health Services indicates there are limited employment opportunities for persons with developmental disabilities. Supported employment is designed for persons with disabilities who need individualized and sometimes long-term supports, such as job coaches and restructuring of work, to maintain employment. Historically, the private sector has provided more opportunities for supported employment than the public sector.

Some have expressed concern about the lack of a state-supported employment program.

**Summary:** The Department of Social and Health Services, Department of Personnel, and the Office of Financial Management must work together to identify appropriate state agencies that have positions and funding conducive to implementing supported employment positions. Agencies may only participate in the program if they can do so within their existing budgets. Agencies' annual updates must include recommendations for expanding the program to persons with mental or other disabilities. The partici-

pating state agencies must designate a supported employment coordinator, and submit an annual update to the Department of Social and Health Services, Department of Personnel, and the Office of Financial Management of the supported employment program. The three coordinating departments must consult with supported employment provider associations and other interested parties. The Department of Personnel must make available, upon request of the Legislature, an annual report that evaluates the overall progress of state-supported employment programs.

The creation of supported employment positions do not count against an agency's full-time equivalent employee positions.

"State agency" and "developmental disability" are defined.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 27, 1997

## SSB 5770

PARTIAL VETO

C 305 L 97

Protecting child records.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens and Thibaudeau).

Senate Committee on Human Services & Corrections  
House Committee on Children & Family Services

**Background:** Under current law most information concerning reports and investigations of child abuse and neglect is considered confidential. Recent changes to federal law have given the states greater authority to release such information to the public when the release is pursuant to a legitimate state purpose.

It has been suggested that the Washington laws be amended to allow the Department of Social and Health Services (DSHS) to disclose more information than currently allowed.

**Summary:** The confidentiality laws covering child welfare records are modified to allow greater disclosure of information.

When consistent with the Public Disclosure Act and federal law, the Secretary of DSHS, or his or her designee, must disclose information regarding: (1) the abuse or neglect of a child, (2) the investigation of the abuse or neglect, and (3) any services related to the abuse or neglect of a child, unless he or she determines that the disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household.

The information, subject to the "best interest of the child" exception, must be released when: (1) the subject of the report has been charged with a crime related to a report maintained by the department; (2) the investigation of the abuse or neglect of the child by the department or the provision of services by the department has been publicly disclosed by law enforcement, a prosecuting attorney, or a judge in the course of their official duties; (3) there has been a prior knowing, voluntary public disclosure by an individual concerning a report of child abuse or neglect in which the individual is named as the subject of the report; or (4) the child named in the report has died from abuse or neglect, or while in the care of DSHS, or within 12 months of receiving services from DSHS.

If the release of information is authorized, the following information may be disclosed: (1) the name of the abused or neglected child; (2) the determination made by the department for abuse or neglect referrals; (3) identification of services provided or actions taken as a result of any reports; (4) any actions taken by the department in response to reports of abuse or neglect; and (5) any extraordinary or pertinent information when the secretary determines the disclosure is consistent with the public interest.

If a child death has occurred, DSHS must make the fullest disclosure of information possible. If the release is contrary to the best interest of the child or other sibling, the secretary may remove personally identifying information.

If any portion of this act violates federal law causing a loss of federal funds, the conflicting part is inoperative solely to the extent of the conflict. The department is given civil and criminal immunity for its good faith actions under this act, subject to the provisions of the Public Disclosure Act provisions.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the intent section of the bill.

**VETO MESSAGE ON SB 5770-S**

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 5770 entitled:

"AN ACT Relating to the confidentiality of child welfare records;"

Substitute Senate Bill No. 5770 modifies the confidentiality laws covering child welfare records to require greater disclosure of information. It is similar to my original executive request legislation, which was intended to aid in the investigation of child deaths in Washington.

Section 1 of SSB 5770, the intent section, makes strong statements beyond the scope of the bill, and beyond my original intent. I am concerned that it may lead to unintended invasions of privacy in deeply personal and sensitive matters.

For this reason, I have vetoed section 1 of Substitute Senate Bill No. 5770.

With the exception of section 1, I am approving Substitute Senate Bill No. 5770.

Respectfully submitted,

Gary Locke  
Governor

**ESB 5774**

C 88 L 97

Authorizing appellate judges to be appointed as pro tempore judges to complete pending business at the end of their terms of office.

By Senators Roach, McCaslin, Fairley and Oke; by request of Supreme Court.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** For various reasons, the Supreme Court or the Court of Appeals may need judges on a temporary basis. Constitutional and statutory authority exists for the appointment of judges pro tem.

In the case of the Supreme Court, a judge pro tem may be appointed at the direction of a majority of the Supreme Court. The pool from which a Supreme Court judge pro tem may be drawn consists of sitting elected judges of the Court of Appeals and all retired judges of courts of record in this state. There is no statutory limit on the length or number of appointments that may be made.

In the case of the Court of Appeals, a judge pro tem may be appointed by the Chief Justice of the Supreme Court. The pool from which a Court of Appeals judge pro tem may be drawn consists of sitting elected judges of the superior court and all retired judges of courts of record in this state. No Court of Appeals judge pro tem may serve for more than 90 days in any one year.

Sitting judges who serve as judges pro tem in the Court of Appeals or the Supreme Court continue to receive their regular salaries plus reimbursement for subsistence, lodging, and travel. Retired judges who serve as judges pro tem also continue to receive their retirement pay plus reimbursement for subsistence, lodging, and travel. In addition, a retired judge serving as a pro tem receives the difference between his or her retirement pay and the pay received by an active elected judge in the same position as the last judicial position held by the pro tem before retirement.

A separate Judicial Retirement System exists for judges first appointed or elected to a court of record be-



tween 1971 and 1988. For purposes of that system, a "judge" does not include persons serving as pro tems. Generally, since 1988, elected and appointed judges of courts of record have been eligible for membership in the state Public Employees Retirement System. The Public Employees Retirement System does not explicitly mention pro tem judges.

When the term of office of a judge expires, particularly when the judge has run unsuccessfully for reelection, there may be cases still pending that the judge was working on.

**Summary:** Authorization is given for the appointment of certain additional judges as Supreme Court and Court of Appeals judges pro tem. The appointments are to be made when necessary for the prompt and orderly administration of justice.

A judge of the Supreme Court, whose term expires with cases pending, may be appointed by the Chief Justice as a Supreme Court judge pro tem for up to 60 days. A judge of the Court of Appeals whose term expires under the same conditions may, upon the recommendation of the presiding judge of the Court of Appeals, be appointed by the Chief Justice as a Court of Appeals judge pro tem, also for up to 60 days. A judge appointed as a pro tem under these provisions continues to draw the same salary he or she was earning at the time of the expiration of his or her term.

The state employees retirement system law is amended to include the pro tem positions held by these same judges.

**Votes on Final Passage:**

Senate	47	2
House	97	0

**Effective:** July 27, 1997

**SSB 5781**  
**FULL VETO**

Requiring voter approval of city assumption of water or sewer systems.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen, Morton, Rasmussen, Anderson, Swecker and Schow).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** When all of the territory of a water or sewer district is included in a city's corporate boundaries, the city may assume jurisdiction over the district. If 60 percent of a water or sewer district is included within a city, the city may assume full control over the entire district, as long as it is not included within another city. The city may also choose to assume control over the portion of the district contained in the city, and make provision to serve any portion of the district outside of the corporate limits of the city. The district may then vote that the city

assume jurisdiction over the entire district. This latter method may also be used when less than 60 percent of a water or sewer district is included within the corporate boundaries of a city.

**Summary:** A city may only assume the operations of a water-sewer district outside of the city if (a) the area where such operations are assumed is contiguous to the city, and (b) the voters of the district who reside in that area approve a ballot proposition authorizing the assumption. Any rates that the city charges outside of its boundaries must be reasonable to all parties.

If a city assumes the operations of the portion of a water-sewer district that is located within the boundaries of the city, voters of the district who reside outside of the city may approve a ballot proposition requiring the city to assume responsibility to operate and maintain the district's facilities in that area. The area outside the city must be contiguous to the city, and not located in another city.

**Votes on Final Passage:**

Senate	43	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	97	0	(House receded)

**VETO MESSAGE ON SB 5781-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5781 entitled:

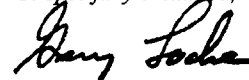
"AN ACT Relating to voter approval of city assumption of a water or sewer district;"

The intent of Substitute Senate Bill No. 5781 is to require a vote of approval by the citizens of a special purpose district, prior to a city proceeding with assumed jurisdiction of a sewer or water district. While the amendatory language provides for this opportunity, it is not clear as to which citizens of the water or sewer territory would be entitled to vote on such a ballot proposition. Furthermore, this legislation fails to establish the procedure for carrying out the election, and, as such, is at odds with established election processes.

Other language contained in this legislation is ambiguous and vague, and conflicts with existing statutes. The possibility of various interpretations of what the language means would be troublesome and frustrating to citizens interested in sewer and water district assumptions. Citizens would be better served by introducing a new bill in the 1998 legislative session that is acceptable to all interested parties. I have directed my staff to work with interested parties in an effort to develop workable legislation for the 1998 legislative session.

For these reasons, I have vetoed Substitute Senate Bill No. 5781 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5782**  
**FULL VETO**

Changing bidding for water-sewer districts.

By Senate Committee on Government Operations (originally sponsored by Senators Swecker, Haugen, Rasmussen and Fraser).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The bidding statutes for water-sewer districts provide, in part, that all work estimated to cost more than \$5,000 must be awarded by contract and that any purchase of materials, supplies or equipment estimated to exceed \$10,000 must be by contract. In addition, purchases of materials, supplies or equipment estimated to cost from \$5,000 to less than \$50,000 must be made by small works roster or as specified in the water-sewer district chapter for competitive bidding. Purchases of materials, supplies or equipment estimated to cost \$50,000 or more must be made by competitive bidding.

**Summary:** The water-sewer district's ability to use the small works roster for projects estimated to cost in excess of \$10,000 to less than \$50,000 is clarified. "Project" is defined to include labor, materials, supplies and equipment. The prohibition on letting contracts for more than cost is removed. Purchases of materials, supplies and equipment exceeding \$10,000 but less than \$50,000 are made under the small works roster statute for purchases or by competitive bidding.

**Votes on Final Passage:**

Senate	48	0
House	94	3

**VETO MESSAGE ON SB 5782-S**

April 24, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Substitute Senate Bill 5782 entitled:

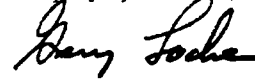
"AN ACT Relating to bid requirements for water-sewer districts;"

*The intent of this legislation was to allow water-sewer districts to keep pace with inflation by increasing the threshold for outside construction bids. It was never intended to jeopardize the current operations of these districts. However, the ambiguity and vagueness of the language contained in this bill would very likely result in unintended consequences that would greatly increase expenses for water-sewer districts.*

*For example, small projects that are currently performed in-house may have to be redirected as contractor bids. The use of vendor listings may be prohibited, which would reduce the flexibility of materials procurement. The advocates and the prime sponsor of this bill have agreed that it is fatally flawed and should be vetoed.*

*For these reasons, I have vetoed Substitute Senate Bill No. 5782 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**SSB 5783**  
**PARTIAL VETO**  
C 445 L 97

Changing provisions relating to public water systems.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Haugen, Anderson, Rasmussen and Morton).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** Current statutory procedure for processing water right applications include a requirement that actual construction work for a project for which a water right permit has been granted is to be commenced within a reasonable time as prescribed by the department. Such construction work is to proceed with diligence and be completed within the time prescribed by the department. In fixing the time for commencement and completion of the work, the department is to take into consideration the cost and magnitude of the project, the engineering and physical features to be encountered and is to allow such time that is reasonable and just.

Also, the department is to grant extensions of the construction schedule when good cause is shown having regard for the good faith of the applicant and the public interests affected.

Once a water right permit is issued, construction work can begin and the water can be placed to beneficial use. Once the water has been deemed to have been placed to beneficial use, a certificate of water right is to be issued. There have been different interpretations as to the proper way to measure the quantity of water that has been placed to beneficial use for municipal water systems: whether it is based on the installed capacity of facilities that have been constructed, or based on the amount that has been actually delivered and placed to beneficial use.

Under the Growth Management Act, the development of comprehensive plans are required in counties who meet certain population criteria. Other counties may choose to plan under the act. Based upon population projection by the Office of Financial Management, counties that are required or have opted to plan under the act are to specify urban growth areas that accommodates the urban growth that is projected to occur in the county for the succeeding 20 year period. Also required is a utility plan element that is to consist of the location and capacity of all existing and

proposed utilities. The capital facilities plan element is to show how capital facilities will be financed for the upcoming six year period.

Water rights held for municipal water supply purposes are exempt from the "use it or lose it" provisions of the state water law. Currently, there is no definition of "municipal purpose" or "municipal water supply purposes" in either the Surface or Ground Water Codes.

**Summary:** A statement of legislative findings concludes that it is in the public interest that public water systems be allowed to prolong and maximize the use of water rights applied to municipal purposes consistent with population demand projections, to promote water conservation and to eliminate disincentives for investments in water efficient technology.

A definition of "municipal water supply purposes" is provided to include all water systems with 15 or more connections. The water rights and water right claims for these systems are exempt from relinquishment for non-use.

In fixing and granting extensions to construction schedules for municipal water supply purposes, the Department of Ecology is to take into consideration the term and amount of financing required to complete the project, delays that may result from planned and existing conservation measures, and the supply needs of the public water system's service area as determined in comprehensive land use plans.

For public water supplies designed to accommodate future growth as defined by a state-approved water system plan, the amount of water applied to beneficial use, at the time the certificate of water right is issued, is to be based on (1) installed capacity and (2) a growth projection contained in the most current state-approved water system plan. This requirement applies to water rights existing on the effective date of this act, and to water rights that are issued in the future. This requirement does not apply to water rights for which final adjudication decrees have been entered.

#### Votes on Final Passage:

Senate	34	15	
House	85	11	(House amended)
House	69	27	(House reconsidered)
Senate	32	15	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** One section was not vetoed. This section provides that when fixing or extending schedules for construction of systems that provide municipal water supplies, the Department of Ecology must take into consideration the terms of financing required to complete the project, delays that may result from implementation of conservation measures and the supply needs of the public water system as determined by comprehensive land use plan.

The section that defined the term "municipal water supply purposes" was vetoed and leaves the term to be in-

terpreted by the courts as to when water rights held for such purposes are exempt from the non-relinquishment provisions of the code. Regarding the issue of how to determine the amount of water that a public water system has placed to beneficial use and thus is entitled to a certificated right to that amount, the veto indicates that it is not to be based solely on installed capacity of the diversion works and the growth projection of the water system's needs.

#### VETO MESSAGE ON SB 5783-S

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 2, and 4, Substitute Senate Bill No. 5783 entitled:

"AN ACT Relating to public water systems;"

I have vetoed most of Substitute Senate Bill No. 5783, which affects water rights for public water systems. I do, however, recognize the need for and importance of providing adequate water supplies to support responsible growth. It is unfortunate that a compromise was not reached between the bill proponents and state agencies that addressed such an important issue in a balanced manner that also protected instream resources. I encourage the water purveyors and local government to return to the negotiating table and work with state agencies to resolve these issues in a balanced fashion.

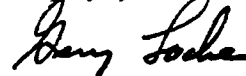
Sections 2 and 4 would work together to provide an unfair advantage to public water systems by creating great uncertainty in trying to determine what water is available for other water rights, new applications, and the protection of instream resources. This would make it increasingly difficult to effectively and efficiently manage the public waters of the state. Section 1 directs the Department of Ecology to administer water rights laws consistent with sections 2, 3, and 4.

For these reasons, I have vetoed sections 1, 2, and 4 of Substitute Senate Bill No. 5783.

I have approved section 3, which amends the existing statute that fixes and grants extensions to the construction schedules for application of water to a beneficial use. These changes provide certainty for the water purveyors as to which conditions the Department of Ecology is required to consider. The term and amount of financing are major issues for water utilities and this language provides them assurance in their efforts to construct major capital facilities. Consideration for conservation and efficiency underscores and supports stretching existing water supplies. Finally, section 3 makes a positive step toward coordinating public water system supply with Growth Management Act provisions and population projections.

With the exception of sections 1, 2, and 4, Substitute Senate Bill No. 5783 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5785**

C 446 L 97

Providing for consolidation of ground water rights of exempt wells.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Newhouse, Morton, Haugen and Rasmussen).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** The permit system established in the state's statutory system for the regulation of ground waters allows withdrawal of small quantities of water without first obtaining a permit or certificate. These exemptions include stock watering, watering of lawns and gardens of less than half an acre, single and group domestic uses up to 5,000 gallons per day, and industrial uses up to 5,000 gallons per day.

No provision is made for consolidating an exempt ground water right with another right.

**Summary:** A procedure is provided for consolidating exempt ground water rights with ground water rights for which a permit or certificate have been issued. When that procedure is followed and the Department of Ecology has issued a consolidation amendment, the consolidation may be accomplished with no effect on the priority of the rights involved.

The procedure is similar to that required for permit applications, requiring application to the department, publication of notice, and a comment period. Prior to issuing a consolidation amendment, the department must determine that: (1) both wells tap the same body of public ground water; (2) use of the exempt well will be discontinued when the consolidation is approved; (3) agreements running with the land will prevent replacement of the discontinued well with another exempt well serving the same area; (4) all discontinued wells will be properly decommissioned; and (5) other existing rights, such as ground and surface water rights and minimum stream flows, will not be impaired.

When the consolidation takes effect, the amount of water to which the permit or certificate holder has a right is increased. The increase is the average volume withdrawn from the discontinued wells over the five years preceding the application date, to a maximum of 5,000 gallons per day. A minimum increase of 800 gallons per day is prescribed, but an alternative minimum volume may be set by the department, in consultation with the Department of Health.

The Department of Ecology is required to presume that an increase proposed in an application is an accurate statement of the five-year average if it is consistent with the average of similar uses in the general area. The department, also in consultation with the Department of Health, is directed to develop a schedule of average household

and small-area landscaping uses. A presumption in favor of the consolidation must also be given if the discontinuance of the exempt well is consistent with an adopted plan for a coordinated water system, a comprehensive land use plan, or other comprehensive watershed management plan designed to decrease the number of small ground water wells.

The department is required to give priority to its consideration of an application. A decision must be reached within 60 days after the end of the comment period or the completion of compliance with the State Environmental Policy Act, whichever is later. This deadline may be extended by agreement between the applicant and the department.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 27, 1997

**SSB 5803**

FULL VETO

Allowing electronic distribution of rules notices.

By Senate Committee on Government Operations (originally sponsored by Senators Finkbeiner and McCaslin; by request of Department of Revenue).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The Administrative Procedure Act (APA) permits agencies to allow public comment on proposed rules by means of telefacsimile (fax) when the agency has the necessary receiving equipment. There are no provisions for communication by electronic mail or for agencies to transmit agency notices by either electronic mail or by fax.

**Summary:** The definition of "mail or send" is added to the APA. This definition means regular mail, fax or electronic mail and applies to any notice relating to rule-making policy or interpretative statements. Agencies that have the capacity to transmit electronically may ask persons entitled to receive agency notices whether they would like to receive them electronically. If a person requests electronic distribution, distribution by electronic mail or fax may substitute for mailed copies.

**Votes on Final Passage:**

Senate	46	0	
House	97	0	(House amended)
Senate	42	0	(Senate concurred)

## VETO MESSAGE ON SB 5803-S

May 9, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5803 entitled:

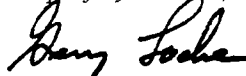
"AN ACT Relating to the distribution of rules notices;"

Substitute Senate Bill No. 5803 would encourage agencies to distribute regulatory information electronically to businesses and citizens who would like to receive this information in that format.

This bill is identical to Substitute House Bill No. 1323, which I have already approved. There is no need to enact an identical law.

For this reason, I have vetoed Substitute Senate Bill No. 5803 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SB 5804

C 175 L 97

Eliminating the requirement for a study of the property tax exemption and valuation rules for computer software.

By Senators Finkbeiner and West; by request of Department of Revenue.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All property, both real and personal, is subject to property taxation unless specifically exempt. Personal property includes both tangible and intangible property.

Custom computer software, master or golden copies of software, retained rights in software, and modifications to canned software are exempt from property tax. Embedded software is taxed as part of the computer system or machinery or equipment containing the embedded software. Taxable computer software, except embedded software, is taxed in the first year at 100 percent of acquisition cost, in the second year at 50 percent, and thereafter at zero.

The legislation exempting computer software in 1991 also required the Department of Revenue to form an advisory committee to assist it in studying the computer software exemptions and valuation rules to determine whether they are necessary and appropriate to achieve fairness, equity, and uniformity in the property tax treatment of computer software. The department is to report its findings to the Legislature by November 30, 1998.

**Summary:** The requirement to study the computer software exemptions and valuation rules is repealed.

## Votes on Final Passage:

Senate	48	0
House	98	0

Effective: July 27, 1997

## SB 5809

C 89 L 97

Requiring unauthorized insurers to be financially sound.

By Senators Fraser, Hale, Winsley and Prentice.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Unauthorized insurers are foreign or alien insurance companies that do not apply for a certificate of authority in Washington. Washington requires unauthorized insurers to have a certain amount of capital and surplus held in the state or foreign country where these companies conduct business. In addition, an alien insurer must obtain a trust account placed in the United States in the amount of \$2,500,000. The trust fund pays the claims of policyholders in the United States in the event of an insolvency.

**Summary:** The amount of the alien insurer's trust account in the United States is increased to \$5,400,000.

## Votes on Final Passage:

Senate	49	0
House	98	0

Effective: June 1, 1998

## SB 5811

C 249 L 97

Including foreign terrorism in the definition of criminal act for the purposes of crime victim compensation and assistance.

By Senators Roach, Schow and Fairley; by request of Department of Labor & Industries.

Senate Committee on Ways & Means

**Background:** The Department of Labor and Industries administers the crime victims' compensation program which provides financial, medical and mental health benefits to the victims of violent crimes. Benefit payments provided by the program are secondary to all other insurance benefits including private insurance, public assistance and worker compensation. Funds for the program come from fees, fines and assessments collected by the criminal justice system along with federal grants.

To be eligible for compensation, the criminal act must have occurred either in Washington or outside the state

**SSB 5827**

against a Washington resident (if that state does not have a crime victims' compensation program).

Recent federal legislation requires states' crime victim compensation programs to include state residents who are victims of terrorist acts in foreign countries. States must enact this provision to continue to receive federal crime victim compensation grants. The state expects to receive about \$6 million in the 1997-99 biennium from federal grants.

**Summary:** For the purposes of crime victims' compensation, the definition of a criminal act is expanded to include an act of terrorism committed against a Washington State resident outside the United States.

**Votes on Final Passage:**

Senate 47 0  
House 97 0

**Effective:** May 2, 1997

**SSB 5827**

C 387 L 97

Collecting the cost of governmental entities using collection agencies.

By Senate Committee on Government Operations (originally sponsored by Senators Roach, Haugen and Long).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Municipalities may contract with collection agencies to collect public debts. There must first be an attempt to advise the debtor of the existence of the debt, and that the debt may be assigned for collection if not paid. At least 30 days must elapse from the time the notice is sent to the debtor before the debt may be assigned to the collection agency.

The term "debt" includes fines and other debts.

**Summary:** Municipalities may add a reasonable fee to the outstanding debt for the collection agency fee. A contingent fee of up to 50 percent of the first \$100,000 of the unpaid debt per account is allowed. If the unpaid debt is over \$100,000, a contingent fee of up to 35 percent per account is allowed. A minimum fee of the full amount of the debt up to \$100 per account is allowable. There is a presumption that any fee agreement entered into by the municipality is reasonable.

The term debt includes the collection agency fee, and restitution owed to victims of crime.

**Votes on Final Passage:**

Senate 41 7  
House 86 12 (House amended)  
House 80 18 (House reconsidered)  
Senate 41 5 (Senate concurred)

**Effective:** July 27, 1997

**SB 5831**

C 401 L 97

Eliminating provisions allowing adjacent counties as the venue of actions by or against counties.

By Senators Newhouse, Deccio, Haugen and McCaslin.

Senate Committee on Government Operations  
House Committee on Law & Justice

**Background:** All actions against a county may be commenced in the superior court of that county or in the adjoining county. All actions by a county are commenced in the superior court of the county where the defendant resides, or in the superior court of the adjoining county.

**Summary:** An action against a county may be brought in the superior court of the county, or in the superior court of either of the two nearest counties. An action by a county is brought in the superior court of the county in which the defendant resides, or in either of the two counties nearest the county bringing the suit. The officer of the Administrator for the Courts determines the nearest counties.

**Votes on Final Passage:**

Senate 34 14  
House 98 0 (House amended)  
Senate 37 7 (Senate concurred)

**Effective:** July 27, 1997

**SB 5835**

C 3 L 97

Limiting property taxes.

By Senators Swecker, McDonald, Benton, McCaslin, Zarelli, Horn, Sellar, Stevens, Deccio, Johnson, Newhouse, Winsley, Oke, Long, Anderson, Rossi, Roach and Hochstatter.

Senate Committee on Ways & Means

**Background:** All real and personal property in this state is subject to the property tax each year based on its value unless a specific exemption is provided by law.

Real property lying wholly within individual county boundaries is assessed based on its value by the county assessor. Intercounty, interstate, and foreign utility and transportation companies are assessed based on their value by the Department of Revenue. Property assessed by the Department of Revenue is referred to as state-assessed or centrally assessed property.

Property taxes are imposed on the assessed value of property. Current law requires the assessment to equal 100 percent of the fair market value of the property on July 31 of the assessment year for new construction and on January 1 of the assessment year for all other property.

County assessors revalue property periodically on a regular revaluation cycle. The length of the revaluation

cycle varies by county. The most common length is four years, which is the maximum allowed by statute. In counties on a four-year revaluation cycle, the change in the tax assessment in the year of revaluation reflects four years of market value changes. Changes in assessments are determined by changes in the real estate market. Therefore, there is no limit to the amount an assessment may increase or decrease.

In 1971, the Legislature imposed a statutory lid on regular property tax levy increases. Under this lid, regular property taxes levied by a taxing district in any year may not exceed 106 percent of the taxes levied by the district in the highest of the preceding three years. Added to this amount is the previous year's tax rate multiplied by the assessed value in the district that results from new construction and improvements to property in the previous year and any increase in the value of state-assessed property. To remove the incentive to maintain a high levy, taxing districts other than the state are assumed to have levied the maximum allowed since 1986.

The 106 percent limit is not a limitation on the amount of taxes that may be imposed on an individual taxpayer but rather is an aggregate limit on the amount of property taxes that may be levied by a taxing district.

The state property tax for collection in 1996 was reduced 4.7187 percent by legislation enacted during the 1995 session. In Chapter 2, Laws of 1997, the Legislature extended the one-time 4.7187 percent reduction of the 1996 state property tax to 1997. In addition, a 4.7187 percent reduction in 1998 and thereafter is to be referred to the voters. The 1998 reduction is used in calculating the 106 percent limit in 1999 and thereafter. Therefore, the 1998 reduction is a permanent reduction in the state property tax.

**Summary: Value Averaging.** A limitation is placed on adding to the tax rolls large valuation increases to real property. Each year, the current appraised value is compared to the assessed value for the previous year. The new assessed value is determined according to the following chart:

<u>Difference</u>	<u>New Assessed Value</u>
Negative to +15%	Appraised value
Between 15% & 60%	Old assessed value plus 15%
Over 60%	Old assessed value plus 25% of the difference

Improvements to property (new construction and remodeling) are always added separately at their appraised value.

This value is used in calculating state and local levies beginning with 1999 taxes.

**106 Percent Limit.** The 106 percent limit is changed to the lesser of (1) 106 percent or (2) 100 percent plus the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of

Commerce in September of the year before taxes are payable. However, a 106 percent limit applies to a taxing district with a population of less than 10,000. In addition, a taxing district other than the state may provide for the use of a limit of 106 percent or less for any year. In districts with legislative authorities of four members or less, two-thirds of the members must approve the change. In districts with more than four members, a majority plus one vote must approve the change.

The change in the 106 percent limit applies to 1998 taxes and thereafter.

No increase in property tax revenue, other than that resulting from the addition of new construction and improvements to property, and any increase in the value of state-assessed property, may be authorized by a taxing district other than the state, except by adoption of a separate ordinance or resolution, specifically authorizing the increase in terms of both dollars and percentage. The ordinance or resolution may cover a period of up to two years, but the ordinance must specifically state for each year the dollar increase and percentage change in the levy from the previous year.

**State Property Tax Reduction.** The 4.7187 percent reduction in the state property tax in 1998 and thereafter that is to be referred to the voters under Chapter 2, Laws of 1997, is repealed and replaced with a 4.7187 percent reduction in the state property tax in 1998 and thereafter to be referred to the voters together with the other provisions of this act.

Except for the repeal of the 4.7187 percent reduction in the state property tax in 1998, this act is to be referred to the voters.

**Votes on Final Passage:**

Senate	30	17
House	60	38

**Effective:** July 27, 1997 (Section 401)

30 days after election at which it is approved

**SSB 5838**

C 447 L 97

Requiring health boards to respond to requests for on-site sewage permits in a timely manner.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Morton and Winsley).

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background: On-Site System Permitting.** There are a variety of devices and systems used for the on-site treatment of sewage. Under state Department of Health regulations, an on-site system other than a conventional gravity system or conventional pressure distribution system is regulated as an "alternative system." The

regulation of alternative and conventional on-site systems is undertaken at both the state and local levels.

The state has adopted statewide minimum standards for the siting and operation of on-site systems, which were last substantially revised by rules adopted in 1994. Local health agencies must administer programs consistent with these standards but may exceed the standards to address local circumstances.

For alternative systems, the Department of Health, with the assistance of an advisory committee called the Technical Review Committee (TRC), approves specific proprietary systems or devices. The TRC is created by state rule and comprises representatives of various state and local health agencies, engineering and on-site system design and installation firms, product manufacturers, and others.

Once a device is state-approved, it is added to a list of approved devices that becomes available to engineers and designers who develop site-specific proposals for an on-site system. These proposals are reviewed and approved by the local health agency. The local approval may condition all or part of the proposed alternative system to address specific site issues and operation and maintenance needs.

*Water-Sewer District Formation.* To form a new water-sewer district, 10 percent of the registered voters in an area must petition the county legislative authority. If the county, after a hearing, determines that the district will be conducive to the public health and welfare, formation of the district is submitted to the voters. There is no method for forming a water-sewer district in a development that does not yet have residents.

*On-Site System Operation and Maintenance.* Regulations adopted by the state Board of Health require local governments to establish operation and maintenance programs for on-site septic systems by January 1, 2000. However, the authority for cities, counties, and water-sewer districts to operate on-site system operation and maintenance programs is unclear.

Under current law, counties are authorized to manage systems of sewerage. The definition of systems of sewerage applicable to counties includes on-site septic systems. However, existing law does not provide explicit authorization for county sewage utilities to operate on-site septic system inspection and maintenance programs.

Counties are also authorized to establish aquifer protection districts, shellfish protection districts, lake management districts, and diking, drainage, and sewerage improvement districts, which may include elements for monitoring on-site septic systems. In addition to the authority provided as part of utility programs and special districts, counties are also authorized, through local boards of health, to implement regulatory programs for abating on-site sewer system failures.

Cities are authorized to operate systems of sewerage. The definition of systems of sewerage applicable to cities includes only traditional sanitary sewage disposal facilities,

and does not allow cities to include on-site septic systems within their sewage utility programs.

Water-sewer districts are authorized to maintain and operate systems of sewers, including on-site sewage disposal facilities and approved septic tanks. As part of their programs, water-sewer districts may provide systems for controlling pollution from wastewater, and for protecting and preserving surface and groundwater. Water-sewer districts are authorized to adjust rates and charges for low income persons.

*Certification Requirements.* There are currently no state requirements governing the qualifications of those who design, install, and maintain on-site systems. The on-site system rules adopted by the state Board of Health require the Department of Health to establish guidelines defining qualifications for designers, installers, pumpers, inspectors and maintenance personnel. These guidelines have not been completed.

*Summary: On-Site System Permitting.* A local health officer must respond to an applicant for an on-site sewage system permit within 30 days after receiving a completed application. The application may be approved, denied, or identified as pending. Any denial must be for cause and based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws or regulations. The applicant must be provided with a written justification for the denial, along with an explanation of the appeal process.

If an application to install an on-site system is identified as pending, the local health officer must provide the applicant with written justification that site-specific conditions or circumstances require more time for a decision. The local health officer also must estimate the time required for a decision to be made.

The local health officer may not limit the number of alternative systems allowed within the jurisdiction without cause. Any limitation must be based on environmental concerns or conflicts with other laws, and justified in writing.

The Department of Health must include one person familiar with the operation and maintenance of alternative on-site systems on the Technical Review Committee. The Department of Health must review and update the technical guidelines and standards for alternative on-site systems every three years, with the first review to be completed by January 1, 1999.

*Water-Sewer District Formation.* An alternative method for forming a water-sewer district is established for developments that do not yet have any residents. At the written request of 60 percent of the owners of the area to be included in the proposed district, the county legislative authority may authorize the formation of a water-sewer district to serve a new development. The district must be in compliance with the local comprehensive plan and any local plan for provision of water or sewerage facilities,



cilities. The initial commissioners are appointed by the county legislative authority, and serve until 75 percent of the development is occupied. The water-sewer district may be subsequently transferred or dissolved at the request of 60 percent of the owners of the area in the district.

*On-Site System Operation and Maintenance.* The following programs are authorized for cities, counties, and water sewer-districts as part of a sewer utility: on-site or off-site sanitary sewerage facilities; inspection and maintenance services for on-site systems; point and nonpoint source water pollution monitoring programs that are directly related to sewerage facilities; and public restroom and sanitary facilities. Before adopting on-site system inspection and maintenance services, the city, county or water-sewer district must provide notification to all residences within the proposed service area.

Any requirement for pumping an on-site system septic tank should be based on actual measurement of accumulation of sludge by a trained inspector or owner. The training must be in a program approved by the state Board of Health or local health district.

A city, county, or water-sewer district may not provide on-site sewage system inspection, pumping services, or other maintenance or repair services using city, county or water-sewer district employees unless the on-site system is connected by a publicly-owned collection system to the city, county or waste-sewer district sewerage system.

Cities and counties may provide assistance to aid low-income persons in connection with sewerage systems.

A metropolitan municipal corporation authorized to perform water pollution abatement may exercise the same powers related to systems of sewerage as a county. A port district may exercise the same powers related to systems of sewerage as a city or town.

Counties are authorized to operate, as part of their sewer utilities, programs or facilities currently authorized by other statutes for storm water, flood control, pollution prevention, drainage services, aquifer protection, lake management districts, diking districts, and shellfish protection districts. Counties may not impose overlapping rates or charges for the same programs or services.

*Certification Requirements.* The Department of Health is directed to convene a work group to make recommendations to the Legislature on the development of a certification program for persons who pump, install, design, perform maintenance, inspect, or regulate on-site septic systems. Members of the work group are appointed by the Governor to represent persons involved with on-site system construction and maintenance, and relevant state and local agencies. The work group must report its findings and recommendations to the House Agriculture and Ecology Committee and Senate Agriculture and Environment Committee by January 1, 1998.

#### Votes on Final Passage:

Senate	48	0	
House	89	8	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 1997

## SSB 5845

C 451 L 97

Offsetting an increase in beer tax for health services account with corresponding decrease.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Prentice, Sellar, Hargrove, Benton, Schow, Heavey, Wood, Bauer, Winsley, Wojahn, Haugen, Rasmussen, Jacobsen, McCaslin, Anderson, Newhouse, Johnson, Horn, West, Morton, Hochstatter, Sheldon, Goings, Finkbeiner, Rossi, Hale, Roach and Oke).

Senate Committee on Ways & Means

**Background:** The 1993 health care reform legislation increased taxes on cigarettes, tobacco products, spirits (hard liquor), beer, nonprofit hospitals, and health insurance premiums and prepayments. The revenue from these tax increases is deposited in the health services account and used to fund health care reform.

Beer tax is currently \$7.17 per barrel, or about \$0.022 per bottle, distributed as follows:

\$2.60 to the liquor revolving fund

\$0.18 to the state general fund

\$2.00 to the violence reduction and drug enforcement account

\$2.39 to the health services account

Revenue in the liquor revolving fund is first used for administration of the Liquor Control Board. Remaining funds are distributed as follows: the first 0.3 percent to certain border cities, and the remaining 99.7 percent to the state general fund (50 percent), counties (10 percent), and cities (40 percent).

The 1993 health care reform legislation increased the beer tax rates in three steps. The first increase was July 1, 1993, the second was July 1, 1995 and the final step is scheduled to increase by \$2.39 a barrel on July 1, 1997. The total beer tax will be \$9.56 a barrel with \$4.78 going to the health services account.

Micro-breweries are exempt from the portion of the tax that goes to the health services account. The total tax on micro-breweries is \$4.78 per barrel.

**Summary:** The general fund portion of the beer tax is reduced beginning July 1, 1997.

The liquor revolving fund portion is reduced from \$2.60 to \$1.30 per barrel and these revenues are distributed 80 percent to cities and 20 percent to counties. The state general fund portion (\$0.18) is eliminated.

Votes on Final Passage:

Senate 45 2  
House 82 15

Effective: July 1, 1997

SSB 5867  
PARTIAL VETO  
C 452 L 97

Allowing special excise taxes in certain cities and towns for tourism promotion.

By Senate Committee on Government Operations (originally sponsored by Senators Sellar, Hale and Kohl).

Senate Committee on Government Operations  
House Committee on Trade & Economic Development

**Background:** A hotel-motel tax is a special sales tax on lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. A local option hotel-motel tax was first authorized in 1967 for King County to build the Kingdome. The rate was 2 percent, but the tax was credited against the regular state sales tax which is imposed on lodging charges. Therefore, the total amount of tax paid by the consumer was not increased as a result of this tax. Authority to impose a hotel-motel tax was broadened, first in 1970 to include the cities of Tacoma and Spokane, and then in 1973 to include all municipalities (counties, cities, and towns) except some in King and Yakima counties.

*The "Double Dip."* Generally, a county hotel-motel tax must allow a credit for the amount of a hotel-motel tax levied by a city within the county, thus preventing both the city and county from taxing the same lodging transaction. However, this credit requirement does not apply to a county that issued bonds before June 26, 1975, and pledged hotel-motel tax revenue for retirement of these bonds. King and Yakima counties met this deadline. In addition, cities in those counties are prohibited from imposing a hotel-motel tax, unless the city also imposed the tax and pledged the revenues for bonds before the deadline. The cities of Bellevue and Yakima met this deadline. As a result, in King and Yakima counties, the only cities imposing hotel-motel taxes are the cities of Bellevue and Yakima. The 2 percent taxes imposed by these cities is credited against the state sales tax, as is the usual rule. However, King and Yakima counties also impose 2 percent taxes county-wide, without granting a credit for city taxes as is required for other counties. These county taxes are also credited against the state sales tax. Thus, the state gives up 4 percent of the state sales tax on lodging rentals in these cities. This is known as the "double-dip."

The "double-dip" expires January 1, 2013. At that time, King and Yakima counties must allow a credit for taxes imposed by cities, as do other counties. At the same time, all cities in King and Yakima counties will be

authorized to impose 2 percent hotel-motel taxes, credited against the state sales tax.

*Expansion to Other Uses.* The Legislature has amended the hotel-motel tax statutes several times to expand the allowed uses of hotel-motel tax revenue. Allowed uses for all municipalities now include convention center facilities, performing arts facilities, visual arts center facilities, and promotion of tourism. Some municipalities have been granted specific authorizations to use the revenue for particular purposes, such as tall ship tourist attractions, ocean beach boardwalks, public restrooms, and community restrooms.

*Increased Rates for Some Municipalities.* In recent years, the Legislature has authorized some municipalities to impose hotel-motel taxes at rates higher than 2 percent. These authorizations generally have been limited to narrowly-defined geographic descriptions that include only one or two cities or a county. The highest rate currently in effect under these authorizations is 5 percent. Only the first 2 percent of a municipality's hotel-motel tax is credited against the state sales tax. The original 2 percent hotel-motel tax authorization is now known as the "basic" or "state-shared" hotel-motel tax, to distinguish it from the newer hotel-motel taxes that are added to room charges in addition to general state and local sales taxes.

*Public Facility Districts.* A public facility district can be created in any county, coextensive with the boundaries of the county, for the purpose of providing sports, entertainment, or convention facilities. A public facility district, after voter approval, may impose a hotel-motel tax up to 2 percent. This tax is in addition to other hotel-motel taxes, and is not credited against the state sales tax. This tax cannot be imposed if it would cause total state and local excise taxes on lodging to exceed 11.5 percent. Based on current rates, this tax could not be imposed in King County. The only district imposing this tax currently is in Spokane County.

*The State Convention and Trade Center.* In 1982, the Legislature imposed an additional hotel-motel tax to fund construction and operation of the Washington State Convention and Trade Center. The rate of this state tax is 7 percent in Seattle and 2.8 percent in the remainder of King County. This tax is in addition to the general state sales tax and the hotel-motel taxes imposed by King County and Bellevue.

*Local Option Hotel-Motel Rates.* For most municipalities, the hotel-motel rate is 2 percent, credited against the state sales tax. Higher rates in effect for local-option hotel-motel taxes are:

- 3 percent - Leavenworth
- 4 percent - Chelan, Wenatchee, Cowlitz County, East Wenatchee, Pasco, Pierce County, Snohomish County, Spokane County (including 2 percent by public facility district)
- 5 percent - Grays Harbor County, Bellevue, City of Yakima, Winthrop, Long Beach

For each of the above taxes, 2 percent of the total rate is credited against the state sales tax, so the additional tax paid by lodging consumers (in addition to general sales taxes) is 2 percent or 3 percent.

Some municipalities are not imposing the full rate authorized by the particular statute applicable to the municipality: Pierce County and the cities in that county are authorized to impose 7 percent, but none imposes more than 4 percent; Chelan is authorized to impose 5 percent, but imposes 4 percent; Leavenworth is authorized to impose 5 percent, but imposes 3 percent.

*Hotel-Motel Rates Including State Convention and Trade Center Tax.* The state convention and trade center tax is imposed only in King County. The following rates include the local option rates above and the state convention and trade center tax:

9.0 percent - Seattle

7.8 percent - Bellevue

4.8 percent - Remainder of King County

Again, for each of the above taxes, 2 percent of the total rate is credited against the state sales tax, so the additional tax paid by lodging consumers (in addition to general sales taxes) is 2 percent less than the above amounts.

*Total Sales Taxes on Lodgings.* After adding hotel-motel taxes to state and local general sales taxes, and deducting the credit against the state tax for the basic 2 percent hotel-motel tax, the total tax rate added to consumer's bill is as follows:

15.2 percent - Seattle

14.0 percent - Bellevue

11.0 percent - Remainder of King County

7.0 percent to 10.9 percent - Other areas, depending on local-option tax rates

**Summary:** Every municipality (county, city or town) is authorized to impose hotel-motel taxes under a single section. Separate hotel-motel tax authorizations for particular municipalities are repealed. The authority for hotel-motel taxes by public facility districts is not altered.

*Maximum Rates.* With some exceptions, the total sales tax rate on lodging cannot exceed 12 percent with the maximum local option hotel-motel tax rate being 4 percent, with 2 percent credited against the state sales tax. The exceptions are:

- (a) If a municipality imposes hotel-motel taxes at a total rate exceeding 4 percent on January 1, 1998, it may continue the higher rate. Thus, those jurisdictions with 5 percent or 7 percent authorizations may continue to impose those higher rates if the rate is in effect on January 1, 1998. Currently, Grays Harbor County, City of Yakima, Long Beach and Winthrop qualify.
- (b) If a county imposed hotel-motel taxes at a total rate of 4 percent or more on January 1, 1997, a city or town in that county cannot increase its hotel-motel tax rate over 2 percent. Snohomish and Cowlitz counties meet this criteria.

- (c) A municipality with a population of 400,000 or more in a county with a population of 1 million or more cannot impose hotel-motel taxes at a rate that would cause total sales taxes on lodgings to exceed 15.2 percent. Based on current population estimates, Seattle is subject to this restriction. Seattle does not impose hotel-motel taxes currently, and the total sales tax rate on lodging in Seattle is 15.2 percent, so this provision effectively bars additional hotel-motel taxes in Seattle until January 1, 2013, when the King County hotel-motel tax is no longer imposed county-wide.

- (d) Cities in King County other than Seattle and Bellevue currently impose a total sales tax rate on lodgings of 11 percent. Therefore, these cities could impose 1 percent hotel-motel taxes.

- (e) The authority for King and Yakima counties to impose 2 percent hotel-motel taxes county-wide without allowing a credit for city or town taxes continues until January 1, 2013. Otherwise, a county tax must allow a credit for any city or town tax on the same sale of lodging.

*Use of Revenue.* Hotel-motel tax revenue may be used only for tourism promotion or funding tourism-related capital facilities. "Tourism" is defined as economic activity resulting from tourists, which may include overnight lodgings, meals, gifts, and souvenirs. "Tourist" means a person who travels to a different town, city, county, state, or country, for purposes of business, pleasure, recreation, education, arts, heritage, or culture. "Tourism promotion" means activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purposes of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding marketing of special events and festivals designed to attract tourists. "Tourism-related facility" means property with a usable life of three or more years or constructed with volunteer labor, and used to support tourism, performing arts or to accommodate tourist activities.

*Advisory Committee.* Before imposing a hotel-motel tax, a municipality of 5,000 or more population must create a lodging tax advisory committee with at least five members: two persons involved in activities funded by hotel-motel tax revenue; two persons representing lodging businesses; and an elected official as chair. If a municipality proposes new hotel-motel taxes, increases in hotel-motel taxes, or changes in the use of hotel-motel revenue, the proposal must be submitted to the advisory committee 45 days before final action on the proposal.

*Reports.* Municipalities imposing hotel-motel taxes must submit a report to the Department of Community, Trade, and Economic Development on October 1, 1998, and October 1, 2000. The reports will include information on the rate, revenue, and uses of hotel-motel taxes. The department will summarize and analyze the data and submit reports to the Legislature.

The department's report must include analysis of factors contributing to growth in hotel-motel tax revenue and the effects on tourism growth of expenditures of hotel-motel tax revenue.

**Votes on Final Passage:**

Senate	46	2	
House	95	3	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	93	4
Senate	43	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The veto strikes the delayed effective date and the section which amends the statute providing for funding of stadium capital improvement projects in King County.

**VETO MESSAGE ON SB 5867-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 12 and 25, Substitute Senate Bill No. 5867 entitled:

"AN ACT Relating to hotel and motel taxes in certain cities and towns;"

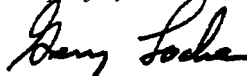
Substitute Senate Bill No. 5867 would repeal separate hotel/motel tax authorizations for particular municipalities, but not alter the authority for hotel/motel taxes by public facility districts. The bill attempts to simplify the imposition, collection and distribution of hotel/motel tax revenues by: (1) clarifying the uses to which the taxes can be applied; (2) making more uniform the rates municipalities may levy; and (3) establishing local advisory committees to recommend uses for local hotel/motel taxes. All of these are worthwhile goals.

Section 12 conflicts with legislation previously approved by the 1997 legislature and therefore I have vetoed it. Section 25 provides a delayed effective date which is unneeded.

For this reason, I have vetoed sections 12 and 25 of Substitute Senate Bill No. 5867.

With the exception of sections 12 and 25, Substitute Senate Bill No. 5867 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5868**

C 453 L 97

Classifying producers of aluminum master alloys as processors for hire for business and occupation tax purposes.

By Senate Committee on Ways & Means (originally sponsored by Senator Sellar).

Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on gross income from business activities conducted within the state. There are several different B&O tax rates.

A processor for hire pays B&O tax at 0.506 percent of the gross income of the business. A manufacturer pays B&O tax at the same rate on the value of the products manufactured. In the case of aluminum master alloy production, the value of products manufactured is greater than the gross income of the business. An aluminum master alloy producer receives bars of aluminum from its customers, adds special ingredients to the aluminum, and ships the modified aluminum back to its customers. The master alloy producer charges for converting ordinary aluminum into a master alloy, but the charge does not include the value of the ordinary aluminum that the customer provided. Nonetheless, the master alloy producer must pay B&O tax on the entire value of the master alloy, including the value of the customer's aluminum, because the producer is classified as a manufacturer under rules of the Department of Revenue.

The B&O tax statutes do not differentiate between manufacturers and processors for hire. Therefore, the Department of Revenue adopted a rule, WAC 458-20-136(13). Under this rule, a person is a manufacturer if they provide 20 percent or more of the value of the materials from which the finished product is made. Apparently, the special ingredients added by an aluminum master alloy producer are more than 20 percent of the value of master alloy. (The customer's aluminum is less than 80 percent of the value of the master alloy.) Thus, an aluminum master alloy producer is classified as a manufacturer and is taxed on the entire value of the master alloy, including the value of the aluminum provided by the customer.

**Summary:** Aluminum master alloy producers are classified as processors for hire without regard to the portion of value of the alloy provided by the producer or its customer. Thus, producers of aluminum master alloys will only pay B&O tax on the price they charge for changing ordinary aluminum into a master alloy, rather than on the entire value of the alloy.

**Votes on Final Passage:**

Senate	43	0
House	83	14

**Effective:** July 1, 1997

**SB 5871**

C 206 L 97

Redefining law enforcement officer to include a port district officer.

By Senators Roach, Fairley, Patterson, McCaslin, Winsley, Sheldon, Goings and Oke.

Senate Committee on Law & Justice  
House Committee on Law & Justice

**Background:** In actions for damages based on tort, contract, or otherwise, a counterclaim for malicious prosecution may be filed, based on the grounds that the principal action was filed with knowledge that it was false, malicious, and unfounded, or was part of a conspiracy to misuse the judicial process. In an action or counterclaim for malicious prosecution brought by a judicial officer, prosecuting attorney or law enforcement officer, liquidated damages of up to \$1000 are allowed, together with reasonable attorneys' fees and other costs. A government entity representing the prevailing judge, prosecutor or law enforcement officer may be reimbursed its attorneys' fees, but is not entitled to receive the liquidated damages.

**Summary:** For purposes of malicious prosecution actions or counterclaims, the term "law enforcement officer" is expanded to include the members of port district police forces.

**Votes on Final Passage:**

Senate	43	0
House	98	0

**Effective:** July 27, 1997

**2SSB 5886**

C 389 L 97

Providing a stable funding source for fisheries enhancement and habitat restoration.

By Senate Committee on Ways & Means (originally sponsored by Senators Strannigan, Swecker, Jacobsen and Oke).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources

**Background:** Regional fisheries enhancement groups were established by the Legislature in 1989 for the purpose of enhancement and restoration of salmon resources. Since that time, regional groups have incorporated, begun ambitious restoration activities, and quickly grown to utilize all available monetary resources.

There is interest in authorizing the regional fisheries enhancement groups to enhance steelhead trout, to expand their funding sources, and to streamline the permits needed for fish enhancement projects.

**Summary:** Regional fisheries enhancement groups are authorized to enhance steelhead trout. The Department of Fish and Wildlife may provide start-up funds for enhancement projects. A regional fisheries enhancement salmonid recovery account is created to receive federal funds. The regional fisheries enhancement group advisory board must make recommendations for streamlining the permitting process for fish enhancement projects. A fish passage barrier task force is created for identification and removal of barriers to anadromous fish passage.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	97	0
Senate	44	0

**Effective:** July 27, 1997

**SSB 5903****FULL VETO**

Authorizing the use of local hotel-motel taxes for operation of performing and cultural arts facilities.

By Senate Committee on Government Operations (originally sponsored by Senators Hale, Morton, Wood and Winsley).

Senate Committee on Ways & Means  
Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Cities and counties are authorized to levy a special excise tax of up to 2 percent on lodging by hotels and motels to help finance stadium facilities, convention center facilities, performing arts center facilities, and visual arts center facilities, or to secure the payment of bonds issued for these purposes.

In addition to the general tax authorization, specific taxes are authorized for various cities and counties for various purposes. These taxes are in addition to state and local sales taxes.

A city with population between 30,000 and 60,000 in a county with a population between 100,000 and 145,000 is allowed to levy such an "additional" 2 percent hotel/motel tax for the purpose of constructing and operating a convention center. Based on current population, Richland is eligible to impose this tax.

**Summary:** The allowed use of the additional 2 percent hotel/motel tax revenue is expanded to include the costs of operation, acquisition, or construction of performing and cultural arts facilities in cities with population between 30,000 and 60,000 in a county with a population between 100,000 and 145,000.

# ESB 5915

## Votes on Final Passage:

Senate 44 1  
House 77 19

## VETO MESSAGE ON SB 5903-S

April 23, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

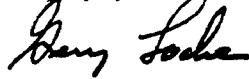
I am returning herewith, without my approval, Substitute Senate Bill No. 5903 entitled:

"AN ACT Relating to the use of local special excise taxes for the operation of performing and cultural arts facilities;"

Substitute Senate Bill No. 5903 would have authorized a special hotel-motel excise tax for the operation of performing and cultural arts facilities in Richland. I understand the desires of the residents of Richland to use this tax method to help with their performing and cultural arts facility. However, Substitute Senate Bill No. 5867, currently working its way through the legislative process, is a comprehensive rewrite of the statutes authorizing local hotel-motel excise taxes for various purposes. I anticipate that Substitute Senate Bill No. 5867 will take care of the needs of the Richland community in this regard. I look forward to its passage so that I can sign it into law and allow the citizens of Richland to proceed with their project.

For these reasons, I have vetoed Substitute Senate Bill No. 5903 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## ESB 5915

C 402 L 97

Allowing counties planning under the growth management act to establish industrial land banks as permissible urban growth outside of an urban growth area.

By Senators Anderson, Hale, Bauer and Stevens.

Senate Committee on Government Operations  
House Committee on Government Reform & Land Use

**Background:** The Growth Management Act (GMA) was enacted in 1990 and 1991, establishing a variety of requirements for counties and cities. A few requirements are established for all counties and cities, and additional requirements are established for those counties and cities that are required to plan under all GMA provisions.

Two sets of populations and growth factors are established to determine whether a county, and the cities within such a county, are required to plan under all GMA requirements.

Each county planning under all GMA requirements, in cooperation with the cities located within its boundaries, develops a countywide planning policy to guide the comprehensive plans that the county and those cities develop. Counties are recognized as being regional governments.

Cities are recognized as the primary providers of urban government services within urban growth areas.

Among other requirements, a county planning under all GMA requirements must designate urban growth areas within the county inside of which urban growth must occur and outside of which urban growth must not occur. Every city must be included within an urban growth area. Other areas may be included in an urban growth area if they are already characterized by urban growth or are adjacent to such areas. The county uses a 20-year population forecast prepared by the Office of Financial Management as the basis for designating its urban growth areas.

A county planning under all GMA requirements must adopt a comprehensive plan with a rural element that includes lands not located within an urban growth area and which have not been designated for agriculture, forest, or mineral resources. The rural element must permit land uses compatible with the rural character of these lands and must provide for a variety of densities.

Every county and city in the state is required to designate agricultural lands with long-term commercial significance for agriculture, forest lands with long-term commercial production of timber, and mineral resource lands with long-term significance for mineral extraction. Counties and cities planning under all GMA requirements are required to adopt development regulations assuring the protection of each of these types of designated lands.

Certain counties planning under GMA may establish a process for reviewing and approving proposals to site specific major industrial developments outside urban growth areas. Major industrial development means a master planned location for a specific business that (a) requires a parcel of land so large that none are available within an urban growth area, or (b) is of a nature requiring a location near agricultural, forest, or mineral resource land.

**Summary:** The number of counties which may establish industrial land banks is expanded. A county planning under GMA that has a population greater than 140,000 and is adjacent to another county may establish a process for designating a "bank" of no more than two master planned locations for major industrial activity outside urban growth areas. Major industrial development must be in proximity to transportation facilities or related industries.

## Votes on Final Passage:

Senate 30 19  
House 96 0 (House amended)  
Senate 42 4 (Senate concurred)

**Effective:** July 27, 1997

**SB 5925**  
**PARTIAL VETO**  
C 90 L 97

Conditioning the use of college credits for the teachers' salary schedule.

By Senator West.

Senate Committee on Education  
House Committee on Education

**Background:** Through the apportionment program, the state makes payments to school districts for basic education, certificated instructional staff salaries based on a state salary allocation schedule. This state salary allocation schedule is used by the state to account for differences in the education and experience of each district's certificated instructional staff. Typically, the greater the experience and education of such staff, the greater the allocation from the state for salary purposes. Actual salaries are negotiated locally, within certain state established constraints.

The 1995-97 Appropriations Act limited the educational credits a district may count as having advanced the experience level of their certificated instructional staff. Those limits are scheduled to expire with the budget act on June 30, 1997.

**Summary:** The act limits the educational credits school districts may count as having advanced the experience level of their basic education, certificated instructional staff. For state apportionment purposes, educational credits earned by certificated instructional staff after September 1, 1995 are eligible for application to the state salary allocation schedule only if the course content:

- is consistent with a school-based plan for mastery of student learning goals;
- pertains to the individual's current assignment or expected assignment for the subsequent school year;
- is necessary to obtain an endorsement as prescribed by the State Board of Education;
- is specifically required to obtain advanced levels of certification; or
- is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certificated instructional staff.

"Credits" are defined to mean college quarter hour credits and equivalent credits for approved in-service, approved continuing education, or approved internship hours computed in accordance with current law. The Superintendent of Public Instruction is directed to adopt rules and standards consistent with the limits established by this act.

**Votes on Final Passage:**

Senate	47	0
House	98	0

**Effective:** July 27, 1997

**Partial Veto Summary:** The emergency clause is deleted.

**VETO MESSAGE ON SB 5925**

April 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

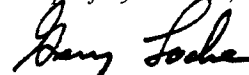
I am returning herewith, without my approval as to section 2, Senate Bill No. 5925 entitled:

"AN ACT Relating to certified instructional staff salaries;"

The emergency clause in section 2 is not needed. SB 5925 codifies the current state policy on credits recognized for state funding. The bill will not affect state funding or school district reporting for the 1996-97 school year. Without the emergency clause, the bill will take effect before September 1, 1997, the beginning of the 1997-98 school year.

For these reasons, I have vetoed section 2 of Senate Bill No. 5925. With the exception of section 2, I am approving Senate Bill No. 5925.

Respectfully submitted,



Gary Locke  
Governor

**E2SSB 5927**

C 403 L 97

Changing higher education financing.

By Senate Committee on Ways & Means (originally sponsored by Senators Wood, Bauer, Winsley, Kohl, Sheldon, Hale, Prince, Patterson and West).

Senate Committee on Higher Education  
Senate Committee on Ways & Means  
House Committee on Higher Education  
House Committee on Appropriations

**Background:** Until 1995, the Legislature established in statute that tuition would be a percentage of the instructional costs at public colleges and universities. In 1995, the Legislature removed the direct link to cost of instruction and set forth dollar amounts for tuition at the public higher education institutions. A specific amount is set for residents and nonresidents enrolled as undergraduates, graduates or professional students. The 1996 Legislature, by setting forth an amount in statute, again increased non-resident undergraduate tuition at the two research universities. The Legislature intended that setting forth of dollar amounts would be a "transition measure until final action is taken in 1997."

With the increase in tuition as a percentage of cost and a greater reliance on tuition revenue, Washington is similar to other states. Results from a national survey by the American Association of State Colleges and Universities noted that: "The substantial increases in tuition and fee charges for ... the past decade, indicate a continuing shift

in the burden of payment for public education to students and parents." Extra tuition dollars are replacing tax support.

Predicted population increases in the state of Washington require additional enrollments in the state's higher education institutions to meet the demand of a growing population of college-age residents, to meet the training and re-training needs of the workforce, as well as to provide opportunities for life-long learning. While K-12 enrollments increase to meet the demand of population increases, there is nothing in statute that provides a caseload increase for enrollments at the postsecondary level.

According to research, American higher education has been sheltered for years from the critical scrutiny and demands for accountability that all institutions endure and respond to. Until recently, colleges and universities focused their efforts on obtaining increases in resources as a way to improve quality, not on finding better ways to use the resources already available to them. Now colleges and universities face new circumstances, including a much more critical attitude on the part of those who fund undergraduate education—parents and policymakers as well as the press and the general public. Institutions are being held accountable for the productive use of the resources they have.

**Summary:** Tuition is set forth in statute for a two-year period. During the 1997-99 biennium, tuition increases 4 percent per academic year for most categories of students. Exceptions are allowed for increases in three student categories at the University of Washington: 8.3 percent for nonresident undergraduates, 7.3 percent for resident law students, and 6.7 percent for nonresident law students. The University of Washington must use 10 percent of the revenue from the difference between a 4 percent increase and the actual increase to help needy resident undergraduate students and needy resident law students. Tuition rates are frozen after the 1997-99 biennium unless the Legislature adopts either different rates or a policy for establishing tuition rates. New tuition rates may be included in the operating budget.

**Votes on Final Passage:**

Senate	42	7	
House	91	6	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	78	12
Senate	40	6

**Effective:** July 27, 1997

**SB 5938**

C 365 L 97

Revising sentencing provisions.

By Senators Roach, Long, Zarelli, Haugen, Benton, Finkbeiner, Oke, Swecker, Anderson, Stevens, Winsley, Strannigan and Schow.

Senate Committee on Law & Justice  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections

**Background:** Manslaughter in the first degree is committed when a person recklessly causes the death of another person or intentionally and unlawfully kills an unborn quick child by assaulting the mother. Manslaughter in the first degree is a class B felony which carries a maximum penalty of ten years in prison, a \$20,000 fine, or both.

Under the Sentencing Reform Act, manslaughter in the first degree is ranked at seriousness Level IX. An offender who does not have any criminal history has a presumptive standard range of 31 to 41 months in prison. The actual sentence a particular offender receives depends on the offender's prior criminal history and other current charges.

Manslaughter in the first degree is not among a list of crimes that are considered to be "serious violent offenses." The serious violent offense category includes murder in the first and second degree, homicide by abuse, assault in the first degree, kidnapping in the first degree, rape in the first degree, assault of a child in the first degree, or an attempt to commit any of those offenses. Special sentencing rules apply to serious violent offenses which may result in imposition of harsher penalties for offenders who commit them or who have them in their criminal history.

Manslaughter in the second degree is committed when a person causes the death of another person through criminal negligence. Manslaughter in the second degree is a class C felony, which carries a maximum penalty of five years in prison, a \$10,000 fine, or both. Manslaughter in the second degree is ranked at seriousness Level VI on the Sentencing Reform Act grid. A first-time offender's presumptive range is one year to 14 months in prison. Again, the actual range is determined by considering the offender's prior criminal history and other current offenses.

Murder in the first degree may be committed in a variety of ways. One way is premeditated intent to commit murder. Murder in the second degree can be committed by intending to commit murder but without premeditation. In some factual cases, the difference between the two mental states can be slight.

Murder in the first degree has a seriousness Level XIV on the grid. Murder in the second degree's seriousness level is one below that at Level XIII. However, the top end of the standard ranges for murder in the second degree are several months below the bottom end of the standard ranges for murder in the first degree. For example, the standard range for an offender convicted of murder in the second degree who does not have a prior criminal history is 123 to 164 months in prison. In contrast, the range is 240 to 320 months for an offender convicted of murder in



the first degree if the offender does not have a prior criminal history.

The Sentencing Reform Act rules require that, when establishing presumptive ranges, the minimum term of confinement must be no less than 75 percent of the maximum term.

**Summary:** Manslaughter in the first degree is added to the list of "serious violent offenses." The seriousness level is raised from Level IX to Level XI which means the presumptive sentence ranges are increased. For example, a first time offender's presumptive range is 78 to 102 months in prison. The classification of the crime is increased from class B to class A, which means the statutory maximum penalty that may be imposed is life in prison.

The seriousness level of manslaughter in the second degree is raised from Level VI to Level VIII. This means the presumptive standard ranges are increased. For example, a first time offender's presumptive range is 21 to 27 months in prison. The classification of the crime is changed from a class C to a class B felony.

The presumptive standard range for murder in the second degree is expanded so that the top end of the range is almost at the bottom of the range for murder in the first degree. For example, for an offender without any prior felony criminal history, the range is 123 to 220 months compared to the range for murder in the first degree which is 240 to 320 months. The ranges change across all the presumptive sentence ranges for offenders with various criminal histories. The rule that requires the minimum term of a presumptive range be no less than 75 percent of the maximum term does not apply to the range for murder in the second degree. Instead, the minimum term must be no less than 50 percent of the maximum term.

**Votes on Final Passage:**

Senate	45	3
House	96	1

**Effective:** July 27, 1997

**ESB 5954**  
**PARTIAL VETO**  
C 288 L 97

Regulating claims against the University of Washington.

By Senators West, Swecker, Rossi, Snyder and Kohl.

Senate Committee on Higher Education  
House Committee on Appropriations

**Background:** In 1976, the self-insurance revolving fund was created for the University of Washington. The fund is used to provide professional liability coverage for faculty physicians at the university. The State Treasurer acted as the fund custodian from 1976 to 1991. In 1991, management of the fund was turned over to the State Investment Board. The current value of the fund is \$30 million.

**Summary:** Custody of the University of Washington self-insurance fund is transferred from the Treasurer to the university. Provisions regarding the State Investment Board are eliminated.

The Attorney General must approve all payments from the fund in excess of \$25,000.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The emergency clause is removed.

**VETO MESSAGE ON SB 5954**

*May 7, 1997*

*To the Honorable President and Members,  
The Senate of the State of Washington*

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to section 2, Engrossed Senate Bill No. 5954 entitled:*

*"AN ACT Relating to claims against the University of Washington;"*

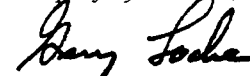
*This legislation moves the University of Washington's self-insurance fund from the custody of the state treasurer to the university, and makes the university the investment manager for the fund rather than the state investment board. These changes simplify the administrative procedures for using the fund by eliminating the involvement of multiple agencies.*

*ESB 5954 includes an emergency clause in section 2. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.*

*For this reason, I have vetoed section 2 of Engrossed Senate Bill No. 5954.*

*With the exception of section 2, Engrossed Senate Bill No. 5954 is approved.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**ESB 5959**  
C 176 L 97

Allowing for the establishment of restricted seed potato production areas.

By Senators Anderson and Morton.

Senate Committee on Agriculture & Environment  
House Committee on Agriculture & Ecology

**Background:** Growers of seed potatoes may apply for certification to the Department of Agriculture. Seed potatoes may be certified if they meet standards set by department rules relating to the presence of plant disease, nematodes and other factors.

## SSB 5965

Concerns exist regarding introduction of plant diseases and insect pests into traditional seed potato production areas that may increase the risk of seed potatoes not meeting seed certification standards.

**Summary:** Growers of certified seed potatoes may submit a petition to the Department of Agriculture requesting the establishment of a restricted seed potato production area. The petition is to include a description of the proposed boundaries of the restricted seed potato production area, and the restrictions that are proposed to apply to the growing on nonseed potatoes. Petitions must be signed by at least 50 percent of the growers in the proposed area who have produced at least 50 percent of the certified seed potatoes in each of the two preceding years.

The Department of Agriculture must investigate the need of establishing a restricted seed potato production area within 60 days of receipt of a petition. The director may propose rules and hold public hearings in the area affected by the proposed rules. The department has authority to adopt rules in accordance with the Administrative Procedure Act to establish a restricted seed potato production area to prevent increased exposure to plant diseases and insect pests that would adversely affect the ability to meet certification standards for seed potatoes.

### Votes on Final Passage:

Senate	49	0
House	94	2

Effective: April 23, 1997

## SSB 5965

C 327 L 97

Providing for changes in agency experience ratings for industrial insurance.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Horn, Anderson, Heavey and Franklin).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Retrospective rating is an optional incentive program offered by the Department of Labor and Industries and is designed to reward state fund employers who minimize their workers' compensation costs with a refund of a portion of the premium paid. Private employers which receive refunds typically reinvest the money in safety awareness, accident prevention and claims management activities to further increase savings.

State agencies represent the largest state fund employers. Smaller state agencies that participate in the retrospective rating program generally do so through a group plan that is managed by the Risk Management Division of the Department of General Administration. State agencies that earn a refund through the program are required to deposit the refund in the industrial insurance

premium refund account in the Treasurer's Office and must submit a supplemental budget request to access their funds. The refund must then be appropriated. The cumbersome nature and delays associated with the process diminish the incentive effect of the program.

Currently, no universities or community colleges enroll in the program. Analysis by the Department of Labor and Industries indicates that large state agencies not enrolled in the retrospective rating program would have earned several million dollars worth of refunds had they been enrolled.

**Summary:** The requirement that moneys in the industrial insurance premium refund account be spent only after appropriation is eliminated. The account is placed in the custody of the State Treasurer and is made subject to allotment under Office of Financial Management rules. Refunds are to be used to offset the cost of an agency's claims management staff and for programs within an agency that promote workplace safety and health, and promote return to work for injured employees.

### Votes on Final Passage:

Senate	49	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 1997

## SB 5968

C 328 L 97

Regulating electric-assisted bicycles.

By Senators Thibaudeau, Wood, Haugen and Prince.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Current law regulates the use of mopeds, which are two-wheeled vehicles powered primarily by a gas engine. mopeds may not be used on trails or in bike lanes. Moped riders must have a valid driver's license, and must comply with helmet laws applicable to motorcycles.

Bicycles are exclusively human-powered. Bicycles may be driven on bicycle paths, recreational trails (unless restricted or prohibited by local ordinance), and on public roads and highways (except for urban-area interstate).

Electric bicycles are a relatively new invention. They have an electric motor, but are primarily human-powered cycles. Electric bicycles do not fit the definitions for mopeds or bicycles.

**Summary:** Electric bicycles are defined as bicycles fully operative with pedals, but also having an electric motor capable of propelling the bike not more than 20 miles per hour.

Electric bicycles are exempt from vehicle registration and licensing requirements. No driver's license is re-

quired to operate an electric bike, although riders must be at least 16 years of age.

Provisions relating to bicycle helmets apply to riders of electric bikes. Electric bikes have the same access to trails, paths and public roads that regular bikes have, unless restricted by ordinance.

**Votes on Final Passage:**

Senate	47	0	
House	89	0	(House amended)
Senate	40	0	(Senate concurred)

**Effective:** July 27, 1997

**ESSB 5970**  
**PARTIAL VETO**  
C 182 L 97

**Modifying fireworks statutes.**

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Horn, Bauer, Heavey, Franklin and Anderson).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** The State Explosives Act prohibits the manufacturing, purchasing, selling, using, possessing, transporting, or storing explosives without having a valid license from the Department of Labor and Industries. Any person who violates this requirement is subject to a class C felony. For purposes of this requirement, explosives do not include fireworks.

*State Licensing and Regulation.* The state, through the State Patrol and the director of Fire Protection, licenses and regulates the manufacture, importation, sale, or use of fireworks. Licenses are not transferable. The State Patrol may adopt rules necessary for the implementation of the state fireworks law. The State Patrol through the director of Fire Protection sets uniform statewide standards for retail fireworks stands.

State licenses are issued for a calendar year beginning January 1 and ending December 31.

A person must apply for an annual state license to sell fireworks at retail by June 10. Fireworks may be sold and used during the Fourth of July holiday only between noon on June 28 and noon July 6. The daily hours of permitted sale and use of fireworks within this holiday period include: June 28, noon to 11:00 p.m.; July 1 through July 3, 9:00 a.m. to 11:00 p.m.; July 4, 9:00 a.m. to midnight; July 5, 9:00 a.m. to 11:00 p.m. and July 6, 9:00 to noon.

During the New Year period, the statutory maximum time period for use and sale of fireworks is from 6:00 p.m. on December 31 until 1:00 a.m. on New Year's Day.

*Local Government Permitting and Licensing.* Local governments must grant permits to manufacture, possess, sell, or transport fireworks if the applicant meets the standard of the state fireworks law. There is no time limit

within which the permit must be granted. Permits for public firework displays are not transferable.

A local fire official may grant or deny a permit for storing fireworks. Consideration must be given to the character and location of the proposed storage arrangement and whether the storage proposal poses a hazard to property or a danger to people.

Unsold fireworks remaining after the end of the sale period for the Fourth of July holiday on July 6 must be returned to an authorized storage facility by July 31. There is no date specified for the return to authorized storage of unsold fireworks after the sale period for the New Year's holiday.

A local public agency may charge a fee to cover all legitimate costs for necessary permits and local licenses. That fee may not exceed \$100.

Local governments may establish rules that are more restrictive than state law.

**Summary:** A person is prohibited from knowingly manufacturing, importing, transporting, storing, selling, or possessing with intent to sell, explosives as fireworks without the appropriate state licenses and local government permits. Violation of this provision is a gross misdemeanor, punishable by no less than 30 days in jail, and a fine of no less than \$5,000. The minimum sentence cannot be suspended or deferred.

*State Licensing and Regulation.* State licenses for the manufacture, importation, sale or use of fireworks are changed from nontransferable licenses to transferable licenses. The licensee may transfer the license and license privileges to another person. The State Patrol must adopt rules necessary to implement the state fireworks law, and has authority to deny the transfer of a license.

Along with setting statewide uniform standards for fireworks stands, the State Patrol through the director of Fire Protection, must adopt rules setting a minimum standard for all matters related to retail fireworks goods. Local governments must comply with these statewide minimum standards.

State licenses and local government permits must be issued annually for the period January 1 through January 31 of the subsequent year, a period of 13 months.

A person must apply by May 1 for an annual state license to sell fireworks at retail and must apply by November 1 for sales during the New Year's holiday only.

*Sale and Use of Fireworks.* During the Fourth of July holiday period, the authorized time of sale is changed from the existing noon June 28 - noon July 6 to 9:00 a.m. June 28 - noon July 6, an increase of three hours. The authorized time for discharging fireworks is modified from the existing noon June 28 - noon July 6 to 9:00 a.m. June 28 - 11:00 p.m. July 6, an increase of 14 hours with no increase in days.

During the New Year season, the period of authorized sales is changed from the existing 6:00 p.m. December 31 - 1:00 a.m. New Year's Day to 9:00 a.m. on December 27

- 11:00 p.m. on December 31, an increase of four plus days.

The authorized time frame for fireworks discharge is maintained from 6:00 p.m. on December 31 until 1:00 a.m. New Year's Day.

*Local Government Permitting and Regulation.* A permit granted by a local jurisdiction for the manufacture, possession, sale, or transport of fireworks must be granted by June 10 or within 30 days of receiving the application, whichever occurs first for sales during the Fourth of July and the New Year's holidays. The permit must be granted by December 10 or within 30 days of receiving the application, whichever occurs first for sales during the New Year's holiday only.

Local government permits are transferable.

When considering a permit for the temporary storage of fireworks in connection with the retail sale of fireworks, cities and counties must use the statewide standards developed by the Washington State Patrol for retail fireworks stands and all matters related to the retail sale of fireworks.

Unsold fireworks remaining after 11:00 p.m. on December 31 must be returned to an authorized storage facility by January 10.

Cities and counties may charge fees for the retail sale of fireworks that include all legitimate costs for necessary permits and licenses. The annual fee must not exceed a total of \$100 for the initial permit and up to an additional \$10 for changes in permit holder or retail stand location. Necessary costs, fees, and licenses include business, environmental impact and inspection costs, fees, and licenses. In addition, cities and counties are limited to a maximum fee of \$100 per public display permit. However, a city or county that requires crowd or traffic control in a public place due to a fireworks display is not subject to this limit.

**Votes on Final Passage:**

Senate	32	14
House	75	23

**Effective:** April 23, 1997

**Partial Veto Summary:** The Governor vetoed the following provisions: (1) allowing the transferability of state licenses and local permits; (2) making the unlicensed manufacture, importation, transportation, storage, sale or possession of explosives as fireworks a gross misdemeanor, punishable by not less than 30 days in jail and a minimum fine of \$5,000; (3) extending the time period for the sale and use of fireworks; and (4) limiting the manner by which local governments currently set permit fees.

**VETO MESSAGE ON SB 5970-S**

April 23, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2, 3, 7, 15, 17, 19 and 24, Engrossed Substitute Senate Bill No. 5970 entitled:

"AN ACT Relating to expanding days of sale while not changing days of use of common fireworks and clarifying other provisions of the existing state fireworks law;"

Engrossed Substitute Senate Bill No. 5970 makes both substantive changes and technical corrections to the state fireworks law.

Section 2 and 3 of the bill, respectively, would make state licenses and locally issued permits freely transferable. When a limited number of permits or licenses exist, free transferability could result in all permits or licenses being controlled by a single entity or small group.

Section 7 would create a mandatory minimum penalty of not less than 30 days in jail and a fine of not less than \$5,000 for knowingly manufacturing, importing, transporting, storing, selling, or possessing with intent to sell as fireworks, explosives that are not fireworks. It would also reduce that crime from a class C felony to a gross misdemeanor; such a reduction is inappropriate. The mandatory minimum sentence prescribed in section 7 is inconsistent with our established sentencing guidelines and is unnecessary.

Section 15 of the bill is unnecessary after sections 2 and 3 have been vetoed.

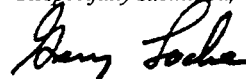
Section 17 of the bill lengthens period during which fireworks may be sold. While the bill does not extend the period during which fireworks may be legally used, use would be extremely difficult to control during the extended sales period.

Section 24 of the bill would limit the fees that a city or county may charge for all fireworks sales authorizations to a total of \$100 per year, and for fireworks display permits to \$100 each. It also would specifically prohibit cities and counties from charging for the costs of business licenses, environmental impacts, inspections, and traffic and crowd control. I believe that local governments should not be prevented from recouping the reasonable costs they incur in allowing fireworks sales and displays.

For these reasons, I have vetoed sections 2, 3, 7, 15, 17, 19 and 24 of Engrossed Substitute Senate Bill No. 5970.

With the exception of sections 2, 3, 7, 15, 17, 19 and 24, I am approving Engrossed Substitute Senate Bill No. 5970.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5976**

C 177 L 97

Clarifying who may legally use the title "nurse."

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood, Prentice, Franklin, Heavey, McAuliffe, Kline, Patterson, Thibaudeau and Kohl).

Senate Committee on Health & Long-Term Care  
House Committee on Health Care

**Background:** It is unlawful for someone to practice or offer to practice as a registered nurse unless the person has been licensed under the laws of the state. Registered nurses, advanced registered nurse practitioners, and licensed practical nurses may call themselves "nurse" under current law.

In practice, nursing assistants, and other health care practitioners who work in offices, clinics, hospitals, and in community care, call themselves "nurse" when introducing themselves to consumers.

There is concern that these practitioners are being seen as registered nurses and that consumers should not be misled.

**Summary:** It is unlawful to use the title "nurse" in this state unless the person is licensed as a registered nurse, a nurse practitioner, or a licensed practical nurse.

Christian Science nurses may call themselves nurses.

**Votes on Final Passage:**

Senate	46	0
House	96	2

**Effective:** July 27, 1997

**SB 5991**

C 329 L 97

Providing for the quality awards council.

By Senators Horn, Haugen and Patterson; by request of Secretary of State.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The Washington Quality Award Council is a part of the Quality for Washington State Foundation, a private, nonprofit corporation. The council oversees the Governor's Washington State Quality Achievement Award Program.

The program's purpose is to improve the overall competitiveness of the state's economy by stimulating business and industry to bring about measurable success. The council is comprised of the Governor, the Director of the Department of Community, Trade, and Economic Development (CTED) and recognized professionals. The Quality for Washington State Foundation provides administrative support and operational expenses to the council.

**Summary:** The council becomes its own private nonprofit corporation separate from the Quality for Washington State Foundation. The Secretary of State's Office provides limited staff assistance. Any such assistance is provided to the extent the Legislature specifically appropriates funds for this purpose.

The council may develop private sources of funding, including the establishment of a private foundation. These private funds are used for administrative support and expenses, beyond any such support provided by the Secretary of State's Office. No public funds are used to purchase awards. No public funds are used for any expenses of the council's subcommittees. No public funds are used to pay overtime or travel expenses of Secretary of State staff for council purposes, unless funded by specific appropriation.

The Governor appoints the board, which members serve for three-year terms. The director of CTED is added as a member of the Quality Award Council, and a specific number of council members is designated.

Technical and clarifying amendments are made.

**Votes on Final Passage:**

Senate	48	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

**SB 5997**

C 178 L 97

Requiring periodic inspections for the regulation of cosmetology, barbering, esthetics, and manicuring.

By Senators Haugen, Schow and Fraser.

Senate Committee on Commerce & Labor  
Senate Committee on Ways & Means  
House Committee on Commerce & Labor

**Background:** Under current law, cosmetologists, barbers, estheticians and manicurists, and operators of salons or shops employing such individuals are required to be licensed. In addition, schools of cosmetology, barbering, esthetics or manicuring, and instructors at such schools are required to be licensed. Individuals seeking any of the above licenses must meet certain training/education requirements, pass the appropriate exam, and pay a license fee.

The Department of Licensing administers these licensing programs. Currently, the fee paid by licensees is deposited into the general fund with a portion of these fees returned to the department for implementation of these programs.

The department is not currently required to conduct regular inspections of licensed establishments unless a complaint is received. Recently, the department began to conduct random inspections of salons and shops to determine compliance with state licensing laws and found numerous violations of these laws.

**Summary:** The Department of Licensing must inspect schools of cosmetology, barbering, esthetics and manicuring at least once a year. In addition, the department must inspect cosmetology, barbering, esthetics and manicuring salons and shops at least once every two years.

**Votes on Final Passage:**

Senate	46	2
House	93	5

**Effective:** July 27, 1997

SB 5998

C 179 L 97

Restructuring the state cosmetology, barbering, esthetics, and manicuring advisory board.

By Senator Haugen.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The Director of the Department of Licensing regulates the professions of cosmetology, barbering, aesthetics, and manicuring.

A seven-member advisory board also exists with the responsibility, as of June 30, 1995, to conduct a thorough review of the educational and licensing requirements for these professions, as well as the applicable enforcement and health standards. This review is conducted together with the Director of the Department of Licensing, or his or her designee. Reporting to the Governor, director, and Legislature is required, including any recommendations for legislation reforming and restructuring the regulation of these professions.

The board ceases to exist on or about June 30, 1997.

**Summary:** The advisory board membership is increased by two members appointed by the director. Both must be experienced members of the professions, one having chain salon supervisory experience and the other having salon and school experience.

The existence of the board is extended one year to June 30, 1998. All members of the board are eligible to be re-appointed if the existence of the board is extended any further.

The board is given authority to request the advice of several pertinent state agencies.

**Votes on Final Passage:**

Senate	49	0
House	94	4

**Effective:** July 27, 1997

**2SSB 6002**

**PARTIAL VETO**

C 342 L 97

Supervising mentally ill offenders.

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove and Oke).

Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections

**Background:** Mentally ill offenders often have difficulty obtaining employment, housing, and appropriate treatment after release from confinement. It is believed that lack of

these resources may lead to a worsening of a person's illness, their reoffending, and a threat to public safety.

**Summary:** A pilot program is created to provide specialized access and services to approximately 25 mentally ill offenders at any one time who, upon release from total confinement, have been identified by the Department of Corrections as high-priority clients for services and meet service program entrance criteria. The program will be operated by a regional support network or other private provider. Offenders placed in the program must remain until the end of their sentence unless released by the Department of Corrections.

The criteria for entry into the program include: (a) the offender suffers from a major mental illness and needs continued mental health treatment; (b) the offender's previous crime was influenced by his or her mental illness; (c) it is believed the offender will be less likely to commit further criminal acts if provided ongoing mental health care; (d) the offender is unable or unlikely to obtain housing and/or treatment from other sources; (e) the offender has at least one year remaining before his or her sentence expires but is within six months of release to community housing; and (f) the offender is willing to cooperate with such services or, with active outreach and encouragement, may be induced to accept such services.

The following services must be provided by the program: (a) intensive case management, including a full range of intensive community support and treatment in client-to-staff ratios of not more than ten offenders per case manager; (b) assistance in locating housing appropriate to the living and clinical needs of the offender; (c) medication prescription as required, medication monitoring, and counseling to support offender understanding, acceptance, and compliance with prescribed medication regimens; (d) a systematic effort will be made to persuade offenders to involve themselves in current and long-term treatment; (e) classes appropriate to the clinical and living needs of the offender and appropriate to his or her level of understanding; (f) assistance in applying and qualifying for entitlement funding to include Medicaid, state assistance, and other available government and private assistance; and (g) access to daily activities such as drop-in centers, pre-vocational and vocational training and jobs, and volunteer activities.

The pilot program must be in operation by July 1, 1998. An oversight committee is created to provide guidance in policy matters and to resolve disputes. Medical centers and other medical providers are indemnified and held harmless with regard to the acts of offenders while in the program.

The Department of Social and Health Services is directed to track outcomes and report to the Legislature on an annual basis. Such reports must include recommendations for modification of the program. By December 1, 2003, the department is required to certify to the Office of Financial Management and the appropriate legislative

committees that the reoffense rate for enrollees in the program is below 15 percent. If the reoffense rate exceeds 15 percent, the authority for the department to conduct the pilot is terminated January 1, 2004.

**Votes on Final Passage:**

Senate	44	0	
House	87	7	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** The Governor vetoed the section that provided indemnification to the pilot project's service providers.

**VETO MESSAGE ON SB 6002-S2**

May 13, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Second Substitute Senate Bill No. 6002 entitled:

"AN ACT Relating to supervision of mentally ill offenders;"

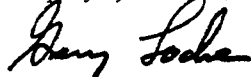
This legislation establishes a pilot program to provide specialized access and follow up care to mentally ill offenders after they are released from confinement. Under this program, the offenders will get help finding employment, housing and treatment services. I believe this type of program will serve the public well by insuring that mentally ill offenders get the help they need to successfully reintegrate into the community.

Section 3 would require that the state "shall indemnify and hold harmless the regional support network, private provider, and any mental health provider, housing facility or other mental health provider from all claims or suits arising in any manner from acts committed by an enrolled offender during his or her period of enrollment." As drafted, section 3 would expose the state to an undue risk of liability. To address concerns that program enrollees may present special liability risks for service providers, the Department of Social and Health Services shall consider all reasonable and appropriate means to help limit service provider exposure to liability.

For this reason, I have vetoed section 3 of Second Substitute Senate Bill No. 6002.

With the exception of section 3, I am approving Second Substitute Senate Bill No. 6002.

Respectfully submitted,



Gary Locke  
Governor

**SB 6004**

C 180 L 97

Creating the K-20 education technology revolving fund.

By Senators Wood, Bauer, Winsley, Jacobsen and Kohl.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The 1996 Legislature established the Telecommunications Oversight and Policy Committee (TOPC)

to oversee the development of a backbone for the K-20 education network.

TOPC has recommended that the costs of ongoing operations of the K-20 network shared infrastructure should be funded through an internal service fund—a sustainable funding source frequently used in state government to provide ongoing utility services. An internal service fund is a type of revolving fund used to account for state activities that provide goods and services on a cost-reimbursement basis to state agencies and other governmental entities.

**Summary:** All network users pay an equitable share of the costs of the network to the education technology revolving fund created in the custody of the State Treasurer. Only the Director of the Department of Information Services or the director's designee may authorize expenditures from the fund. The fund may be used only to pay for the acquisition of equipment, software, supplies and services, and other incidental costs. The fund may not be used for local networks or for anything specific to a particular institution or group of institutions.

**Votes on Final Passage:**

Senate	48	0
House	89	0

**Effective:** April 23, 1997

**SB 6007**

C 91 L 97

Eliminating the operating expenses limitation on mutual savings banks.

By Senators Winsley and Finkbeiner.

Senate Committee on Financial Institutions, Insurance & Housing  
House Committee on Financial Institutions & Insurance

**Background:** Mutual savings banks are limited by law to spending no more than 3 percent of average assets in any calendar year on operation and management expenses. The limitation for smaller mutual savings banks, with under \$500 million in deposits, is 6 percent of average assets.

**Summary:** The statutory limitation is repealed.

**Votes on Final Passage:**

Senate	49	0
House	97	0

**Effective:** July 27, 1997

**SSB 6022**

C 258 L 97

Protecting certain information concerning financial institutions.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Winsley and Hale).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Under current law, examination reports and documents obtained by the Department of Financial Institutions are confidential and privileged information. In a civil action when such information is sought, the court may permit discovery and introduction as evidence of only those documents that are relevant and otherwise unobtainable by the requesting party.

Check cashers and sellers apply to the Department of Financial Institutions for a license to engage in business. In order to apply for the license, a check casher and seller must file an application with the Department of Financial Institutions. Any information in the application regarding residential address and telephone number is exempt from public records disclosure requirements.

All records of registered broker-dealers and investment advisors are subject to periodic examinations by the Director of the Department of Financial Institutions. Under current law, these records are not confidential once obtained by the department.

There are concerns that all confidential information received by the Department of Financial Institutions should be explicitly exempt from the requirements of the Public Disclosure Act.

**Summary:** Examination reports and other information obtained by the Department of Financial Institutions are specifically exempt from the Public Disclosure Act.

**Votes on Final Passage:**

Senate	46	0	
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** July 27, 1997

**SSB 6030**

C 330 L 97

Establishing a performance audit and operations review of the workers' compensation system.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Goings, Anderson, Haugen, Horn, Rasmussen, Long and Oke).

Senate Committee on Commerce & Labor  
House Committee on Commerce & Labor

**Background:** Performance audits can assist the Legislature in determining the impact of state programs and ensuring effective and efficient delivery of services.

**Summary:** The Joint Legislative Audit and Review Committee must, in consultation with members of the Senate and House Commerce and Labor Committees and the Workers' Compensation Advisory Committee, contract for a performance audit of the Department of Labor and Industries. The audit is to review the following elements of the state's workers' compensation system: 1) organizational structure, 2) management and practices, 3) taxation, 4) revenues, 5) types of services, 6) cooperation and continuity between programs, 7) effectiveness in meeting system goals, 8) customer satisfaction, 9) internal reviews, 10) coordination with other agencies, 11) effectiveness in providing sure and certain relief to injured workers, 12) performance compared to other private and public systems, and 13) a review of claims administration practices and the effectiveness of department sanctions in promoting best practices.

The Joint Legislative Audit and Review Committee must report to the Legislature on its findings and recommendations. The Department of Labor and Industries must cooperate with the committee in the audit. The audit is funded from the medical aid fund.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	41	0	(Senate concurred)

**Effective:** July 27, 1997

**ESB 6039**

**FULL VETO**

Imposing fines or regulatory assessments under the insurance code.

By Senator West.

Senate Committee on Ways & Means  
House Committee on Financial Institutions & Insurance

**Background:** Under the Insurance Code (Title 48 RCW), the Insurance Commissioner is authorized to enforce statutory and regulatory requirements by revoking or suspending an insurer's certificate of authority or by levying fines. The fines may be not less than \$250 and not more than \$10,000. Through a settlement agreement or consent order, an insurer may agree to other remedies that may exceed \$10,000.

If a civil action is necessitated to recover a fine, the action is brought by the Attorney General. Fines collected by the Insurance Commissioner are required to be deposited in the state general fund.



**Summary:** Any fine or other regulatory assessment imposed in an enforcement action under the Insurance Code must be collected by the Department of Revenue on behalf of the state and paid into the state general fund.

**Votes on Final Passage:**

Senate	40	9	
House	61	33	(House amended)
Senate	34	10	(Senate concurred)

**VETO MESSAGE ON SB 6039**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 6039 entitled:

"AN ACT Relating to any fine or regulatory assessment imposed in an enforcement action under the insurance code;"

Engrossed Senate Bill No. 6039 provides that any fine or regulatory assessment imposed in an enforcement action under the insurance code must be collected by the Department of Revenue on behalf of the state.

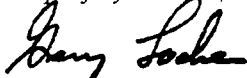
This legislation is the product of a controversy that arose when the Insurance Commissioner levied a fine against an insurance carrier. Later the Commissioner suspended part of the fine, if the carrier agreed to pay costs for activities related to the settlement and for enhanced regulatory activities. The reimbursements were to go into the Commissioner's Regulatory Account. The legislature questioned whether the Commissioner was authorized to act in this manner.

I believe that by passing this bill, the legislature sent a message to the Insurance Commissioner about how fines or assessments should be handled. I believe the Insurance Commissioner got that message. I would much prefer that the legislature look at all fines and other such assessments throughout state government and enact a uniform system rather than pass legislation concerning one elected official only.

For these reasons, I have vetoed Engrossed Senate Bill No. 6039 in its entirety.

I am hereby returning, without my approval, Engrossed Senate Bill No. 6039.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6045**

C 261 L 97

Creating the savings incentive account.

By Senate Committee on Ways & Means (originally sponsored by Senators West, Spanel, Strannigan and Oke; by request of Governor Locke).

Senate Committee on Ways & Means

**Background:** Funds are provided from dedicated accounts for the operations of state agencies on a biennial basis. General fund moneys, however, are appropriated on an annual basis as a result of the annual expenditure

limit established under Initiative 601. State fiscal years begin on July 1 of each year and end on June 30. At the end of any fiscal year, any general fund moneys that remain unexpended from each appropriation reverts to the general fund and does not carry over to the following fiscal year. This reversion may act to create an incentive for state agencies to expend all available dollars to prevent the moneys from reverting to the general fund.

**Summary:** The savings incentive account is created to receive a portion of the "incentive savings" that remain unexpended by state agencies at the end of each fiscal year. "Incentive savings" are defined to include all unspent general fund appropriations except for appropriations for state debt service, higher education enrollments, caseloads in entitlement programs, retirement contributions, and budget provisos where the agency failed to achieve the purpose of the proviso. Moneys in the savings incentive account are credited to the agency that contributed to moneys, and such moneys may be spent by that agency, without a legislative appropriation, for one-time purposes to improve the quality, efficiency, and effectiveness of services to customers of the state (such as employee training and incentives, technology improvements, new work processes, or performance measurements). Moneys in the savings incentive account may not be used for new programs or services or to incur on-going costs requiring future expenditures.

The education savings account is created to receive all general fund reversions that are not deposited in the savings incentive account. This nonappropriated account may be expended by the Board of Education for common school construction projects or K-12 technology improvements.

**Votes on Final Passage:**

Senate	47	1
House	97	0

Effective: May 6, 1997

**SSB 6046**

C 404 L 97

Creating a study by the utilities and transportation commission on universal telecommunications service.

By Senate Committee on Energy & Utilities (originally sponsored by Senator Finkbeiner).

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities

**Background:** The concept of "universal service" in the telephone network has been prevalent since the early part of this century in the United States. This premise holds that the value of the network is higher for all when more users are interconnected.

The universal service concept was embraced by generally leveling the costs of different areas, allowing

## ESSB 6061

various subsidies to cover some of the costs of areas that were more expensive to serve. With competition becoming more prevalent in the telecommunications industry, any universal service subsidies will be more challenging to impose.

**Summary:** By January 1, 1998, the Washington Utilities and Transportation Commission is directed to study and make recommendations on the future of providing universal service telecommunications services in the state. The study is to include a recommended definition of basic service, analysis of potential carriers including wireless, an analysis of cost methodologies, and options for generating and disbursing universal service funding. Completion of the study may be delayed until six months after the Federal Communications Commission adopts universal service rules.

### Votes on Final Passage:

Senate	45	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** July 27, 1997

## ESSB 6061

### PARTIAL VETO

C 457 L 97

### Funding transportation.

By Senate Committee on Transportation (originally sponsored by Senators Prince, Haugen and Wood; by request of Governor Locke).

### Senate Committee on Transportation

**Background:** The transportation budget provides appropriations to the major transportation agencies — the Department of Transportation, the Washington State Patrol, the Department of Licensing, the Transportation Improvement Board, and the County Road Administration Board. It also provides appropriations to many smaller transportation agencies and appropriates transportation funds and accounts to general government agencies.

Two-thirds of the moneys appropriated in the transportation budget are for capital programs, and one-third is for operating programs.

The motor vehicle fund is the primary funding source of transportation programs, providing for 43 percent, or \$1.3 billion, of transportation appropriations in the 1997-99 transportation budget.

The 1995-97 transportation budget totaled \$3.3 billion.

**Summary:** Two distinct sets of appropriations are provided: (1) current revenues to transportation agencies for the 1997-99 biennium (parts 1 through 5); and (2) supplemental appropriations to transportation agencies for the 1995-97 biennium (part 6). The 1997-99 transportation budget total is \$3.068 billion for the biennium.

### 1997-99 Current Law Appropriation (parts 1-5)

#### Department of Transportation

- \$100 million is provided for highway improvement projects addressing freight mobility and economic development. A priority is placed on partnering projects.
  - Funding for critical safety improvement projects is included.
  - The highway preservation program is fully funded, and funding is provided where needed for aging department facilities. Funding for preservation is \$566 million in state and federal funds.
  - Essential funding is provided for highway maintenance and traffic operations. Funding for maintenance is \$242 million in state and federal funds.
  - Funding is provided for the acquisition of the second passenger-only vessel and completion of the second and third Jumbo Mark II vessels.
  - Funding is provided for additional weekend service on the Fauntleroy-Vashon-Southworth ferry route and for continuation of Anacortes-Sidney, B.C. ferry service.
  - \$42.7 million is provided for intercity passenger rail to complete acquisition of the two Talgo trainsets, add one additional round trip between Seattle and Portland, and begin design and preliminary engineering on King Street Station.
  - The loss of federal freight rail assistance funds is replaced with the addition of \$750,000 from the high capacity transportation account.
  - The Rural Mobility Program is funded at \$2.5 million.
  - \$1 million is provided for the Agency Coordination Council on Transportation to better integrate special needs services and transit services.
  - Funding is provided for continuation of Freight Mobility Advisory Committee activities, including a study of freight mobility issues in eastern and southeastern Washington.
- #### Washington State Patrol
- 66 new troopers are added during the biennium to improve the availability and response level for motorist assistance and traffic enforcement. This increases the number of troopers from 735 to 801.
  - The weigh scale at the SeaTac weigh station is upgraded. The SeaTac scale is moved to the Othello weigh station.
  - The Microwave Migration Phase 2 (existing sites) and the Yakima District 3 Headquarters office started in the 1995-97 biennium are completed. Funding is provided for maintenance of existing facilities. No new capital projects are funded.
  - Funding is provided for the year 2000 data processing conversion and mobile communications network enhancements.
  - Funding is provided for an equalization salary adjustment of 3 percent on July 1, 1997 and 6 percent on

July 1, 1998 for commissioned officers, commercial vehicle enforcement officers, and communication officers. This increase brings the trooper pay levels up to the 50th percentile of other Washington State law enforcement compensation plans. This is in addition to the pay increase in the omnibus budget. Total increases may not exceed 12 percent.

- Funding is provided at the current level for all other Washington State Patrol activities.

**Department of Licensing**

- Funding is provided to cover increased costs of doing business. Examples include: increases in the price of film, increased costs for plates and tabs, costs of implementing 1996 drivers under the influence of alcohol legislation, mail and postage increases, Department of General Administration motorpool cost increases, etc.

- Funding is provided for the operation of Licensing Application Migration Project (LAMP). \$3.3 million is provided for the following information systems activities:

(a) identify business objectives and needs relating to technology improvements and integration of the drivers licensing and vehicle title and registration systems and report to the 1998 Legislature;

(b) converting the drivers' licensing software applications to achieve year 2000 compliance;

(c) convert the drivers' field network from a uniscope to a frame-relay network;

(d) develop an interface between the unisys system and the CRASH system; and

(e) operate and maintain the Highways-Licensing Building network and the drivers field network.

- Funding is provided to complete and occupy three capital facilities projects in Vancouver, Union Gap and Lacey initiated in the 1995-97 biennium. Two previously authorized projects, Wenatchee and West Spokane, are not funded. No new capital projects are started.

**Other Agencies**

- *Legislative Transportation Committee:* Funding is provided for TIB/CRAB/TRANSAID consolidation; MVET collection evaluation; and FMAC study in eastern and southeastern Washington.
- *Traffic Safety Commission, Board of Pilotage Commissioners, Utilities and Transportation Commission, Marine Employees Commission, Transportation Commission, Department of Community, Trade, and Economic Development, Office of Financial Management, Department of Agriculture, State Parks and Recreation, operating and legislative agencies* are all funded at current level.
- *Transportation Improvement Board:* Approximately \$221 million is provided for projects.
- *County Road Administration Board:* Approximately \$87 million is provided for projects.

- *Special Appropriations to the Governor:* \$2 million is provided for claims prior to 1990.
- *State Parks and Recreation—Capital:* Funding is provided for roadway preservation in six Washington State parks.
- *Joint Legislative Audit and Review Committee:* Funding is provided for performance audits of the Department of Transportation, including the state ferry system, Department of Licensing, and the Washington State Patrol.

1995-97 Supplemental Appropriations (part 6)

The supplemental budget is \$32.4 million and provides:

1. \$25.1 million of federal funding for floods (DOT).
2. \$4 million additional snow and ice funding (includes \$2 million that was placed in snow and ice reserve in 1996 supplemental budget) (DOT).
3. \$1.1 million of federal funding for railroad crossing projects (DOT).
4. \$700,000 of federal funding for metropolitan planning organizations (DOT).
5. \$500,000 of federal funding for King Street Station design work (DOT).
6. \$500,000 for additional ferry tort claim payments (DOT).
7. \$250,000 for Washington State's share of Wahkiakum ferry costs (DOT).
8. \$250,000 for manual processing of accident reports due to delay in implementing the CRASH project (DOL).

**Appropriation:** \$3.068 billion.

**Votes on Final Passage:**

Senate	30	19	
House	65	32	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	66	32
Senate	36	12

**Effective:** May 20, 1997

**Partial Veto Summary:** The Governor vetoed several sections of ESSB 6061. Section 106 appropriates \$1.5 million to the Joint Legislative Audit and Review Committee to conduct a performance audit of DOT, WSP and DOL. Also, a temporary Performance Audit Advisory Committee is created. The Governor vetoed subsections (3) through (7) to provide maximum flexibility to the advisory committee to manage the audit as effectively as possible within available dollars.

Section 214, dealing with provisions relating to improvement of driver's license security, was vetoed to avoid confusion about legislative intent.

Section 409, transferring \$50 million from General Fund-State into the Transportation Fund in FY 1999, was vetoed.

Section 217(1)(a), appropriating \$100 million for mobility projects and studies selected by the Transportation Commission, was vetoed. The Governor also vetoed section 217(7), prohibiting DOT from spending state or federal funds on the Washington Coastal Corridor Study, so that the study can continue as planned.

Section 226(8), directing deployment of three new Mark II Jumbo Class ferries on specific routes, was vetoed.

Sections 507 and 508, directing agencies spending transportation funds to submit their budget requests and strategic plans to the Office of Financial Management and the Legislative Transportation Committee at the same time, were vetoed.

**VETO MESSAGE ON SB 6061-S**

May 20, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 106(3); 106(4); 106(5); 106(6); 106(7); 214, lines 27 through 33, page 19; 217(1)(a); 217(7); 226(8); 409; 507 and 508, Engrossed Substitute Senate Bill No. 6061 entitled:

"AN ACT Relating to transportation funding and appropriations;"

Engrossed Substitute Senate Bill No. 6061 provides a supplemental budget for the 1995-97 transportation budget, and a state transportation budget for the 1997-99 Biennium. I am vetoing the following sections:

Section 106(3), (4), (5), (6) and (7), pages 5-8, (Joint Legislative Audit and Review Committee)

Section 106 gives the Joint Legislative Audit and Review Committee (JLARC) a \$1.5 million appropriation to conduct a performance audit of the Department of Transportation, the Washington State Patrol, and the Department of Licensing. In addition, a temporary Performance Audit Advisory Committee is created with the Director of the Office of Financial Management serving as the Chair.

While there is no question about the commitment of all parties, including myself, to conduct a creditable and timely performance audit of transportation programs, I have vetoed subsections (3) through (7) in order to provide maximum flexibility to the Advisory Committee to manage the audit as effectively as possible within the available dollars. This veto will permit an audit schedule that will produce substantive results for consideration by the Legislature the 1998 Session. The audit activities outlined in the vetoed provisos can serve as guidance, rather than limits, for the Committee as they start their deliberations. The veto of these subsections does not preclude the Advisory Committee from addressing the same issues, but it does allow the Committee to adjust the scope and emphasis of the audit activities as information is developed by the consultants and committee staff.

Section 214, page 19, line 27 through 33, (Department of Licensing)

This section provides \$2.5 million to improve driver's license document security only if Substitute House Bill No. 1501, Substitute Senate Bill No. 5718, or driver's license security provisions that are substantially similar to the security provisions in either bill are enacted by June 30, 1997. Prior to approving Substitute Senate Bill No. 5718, the Legislature removed provisions relating to digitized photos and anti-counterfeiting and tampering improvements to the driver document. Therefore, I have vetoed this section to avoid any confusion about legislative intent.

Section 217(1)(a), page 21, (Department of Transportation - Improvements - Program D) and Section 409, page 40, (FY 99 Transfer From the GF to the Transportation Fund)

Section 409 transfers \$50 million from the General Fund-State into the Transportation Fund in Fiscal Year 1999, thereby reducing the Initiative 601 expenditure limit by over \$150 million over the next four years. I have vetoed section 409 because this transfer would reduce the availability of General Fund-State resources for education and other high-priority issues in this and future biennia.

I have also vetoed section 217(1)(a), which specifies that \$75 million from the Transportation Fund and \$25 million from the Motor Vehicle Fund are appropriated for mobility projects and studies as selected by the Transportation Commission. Because I have vetoed the \$50 million General Fund-State transfer, only \$50 million is now available for these purposes. Therefore, I will ask the Transportation Commission to provide a project list that fits within the remaining funds using the same criteria specified in section 217(1)(a). I will also ask the Legislature, in the supplemental budget for Fiscal Year 1998, to expedite appropriation of the remaining funds.

Section 217(7), page 22, (Department of Transportation - Improvements-Program D)

This subsection would prohibit the Department of Transportation from spending state or federal funds for the Washington Coastal Corridor Study. This is an ongoing effort in cooperation with the Federal Highway Administration and the State of Oregon that is expected to make a significant contribution to economic development in local communities along the corridor. I have vetoed this subsection so that the study can continue as planned.

Section 226(8), page 31, (Department of Transportation - Marine-Program X)

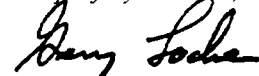
Section 226(8) directs the Department of Transportation to deploy the three new Mark II Jumbo Class ferry vessels on specific routes. These type of decisions are not appropriate in a budget bill and should be addressed by the Transportation Commission who oversee the daily operations of the Washington State Ferry System.

Sections 507 and 508, page 45, (Transportation Budget Submittals)

These two sections direct agencies that spend transportation funds to submit their budget requests and strategic plans to the Office of Financial Management (OFM) and the Legislative Transportation Committee at the same time. All agency budget requests are public documents, and OFM routinely sends a copy of all agency budget requests to the Legislature for review soon after they are received, making these sections unnecessary.

With the exception of sections 106(3); 106(4); 106(5); 106(6); 106(7); 214, lines 27 through 33, page 19; 217(1)(a); 217(7); 226(8); 409; 507 and 508, Engrossed Substitute Senate Bill 6061 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6062**  
**PARTIAL VETO**  
C 149 L 97

Making appropriations for the fiscal biennium ending June 30, 1999.

By Senate Committee on Ways & Means (originally sponsored by Senators West and Spanel; by request of Governor Locke).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The operations of the agencies and institutions of state government are funded by an omnibus appropriations act. State government operates on a two-year basis, with each fiscal biennium beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Transportation agencies and capital projects are funded by separate appropriations acts.

**Summary:** The omnibus appropriations act for the 1997-99 fiscal biennium is enacted (see also SHB 2259, which contains additional appropriations).

**Appropriation:** \$19.045 billion General Fund-State.

**Votes on Final Passage:**

Senate	25	23	
House	53	45	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	53	44	
Senate	24	24	(Senate failed)
Senate	23	25	(Senate reconsidered; failed)
Senate	26	0	(Senate reconsidered)

**Effective:** July 1, 1997

**Partial Veto Summary:** Various appropriations were vetoed.

**VETO MESSAGE ON SB 6062-S**

April 23, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 125; 202; 203; 207(1); 207(6); 211(3); 212(2); 213(1); 214; 222(2); 301; 302(3); 302(4); 302(5); 302(6); 302(17); 302(19); 302(20); 302(21); 302(22); 307; 501; 503; 504; 510; 514; 515(3); 515(4); 515(5); 517; 601; 602; 603; 604; 605; 606; 607; 608; 609; 610(1); 610(2); 610(3); 611; 714; 716; 719(lines 6-26); and 916, Substitute Senate Bill No. 6062 entitled:

"AN ACT Relating to fiscal matters;"

On April 20 the Legislature approved Substitute Senate Bill 6062 providing a state operating budget for the 1997-99 Biennium. Today, with my partial veto, I am returning that budget for further deliberation.

In March, I proposed a \$19.2 billion state operating budget designed to create a world class education system, protect working families and the environment, and increase accountability in all areas of government. By controlling growth in many programs and eliminating others altogether, the budget I proposed

made hard choices that held growth in state spending to its lowest percentage in 25 years, and stayed within the spending limits established by Initiative 601.

Significant parts of the Legislature's budget match the priorities expressed in my budget proposal, while other sections represent reasonable compromises that ensure the efficient delivery of quality services to the citizens of Washington. However, the Legislature's budget is different in two important ways. First, it falls short in providing the excellence we all want for our education system. And secondly, it unnecessarily reduces funding for critical services that help working families, protect abused and neglected children, and safeguard our environment and our economy.

The Legislature has taken the unprecedented action of sending me this budget with sufficient time remaining in the session so that we may resolve our differences and adjourn within the 105 days of this regular session. In the exercise of my veto authority I have acted swiftly, but in a restrained and constructive manner to preserve that opportunity for a timely adjournment.

The issues in contention are limited and can be resolved quickly if the Legislature so chooses. I have focused my attention, and my veto, on several high priorities that I have emphasized from the beginning of my administration: public education, support for working families, services for children and other vulnerable populations, juvenile justice funding, the environment, and fair compensation for teachers and other government employees.

**K-12 Education**

The state's education reform effort is left without sufficient funding for student learning improvement grants or federal Goals 2000 programs. We are asking teachers to teach to a higher standard and to rigorously assess student achievement by those standards. These funds are a critical component of successful implementation of reform. In addition, the Legislature eliminated support for several targeted state programs that are part of ongoing education reform, including school-to-work grants and funding for internships for principals and superintendents.

The Legislature's proposal increases state matching assistance for property-poor school districts (levy equalization) by only about \$4.5 million per year, and only for some of the districts now eligible for that assistance. This is not a sufficient enhancement in assistance for school districts whose ability to raise local levies is hindered by high property tax rates.

The Legislature also eliminated funding for several programs targeted to serve students in school districts with culturally diverse student populations or special learning needs. It eliminates funding for language instruction for preschool students from homes where English is not the primary language, and proposes a new way to distribute funds for bilingual education without adequate evaluation of the possible impacts of such a change. Eliminating funds for students with special needs forces schools and teachers to divert resources from other students.

Therefore, I have vetoed targeted sections of the Superintendent of Public Instruction budget so that the Legislature can improve its level of funding commitment to K-12 education programs in these and other areas.

**Higher Education**

While I applaud the Legislature's commitment to access through increased enrollment at colleges and universities, another critical element of accessibility is affordability. This budget provides insufficient funding to increase financial aid for the state's growing higher education population and threatens to limit access to a public higher education by students with low incomes and limited resources.

To recruit and retain quality personnel for the critical mission of educating our state's population into the twenty-first century, the operating budget should include state funding to raise university faculty salaries to levels competitive with peer institutions, mitigate salary disparities for community and technical college part-time faculty, and provide adequate cost-of-living increases for all education employees.

The Legislature needs to create a more effective approach to accountability for higher education institutions. Performance measures, numeric goals and annual improvement targets should not be established through a political process, but with careful deliberation and collaboration between higher education institutions and the Higher Education Coordinating Board and State Board for Community and Technical Colleges. The Legislature's timeline for release of incentive funds is unworkable.

I remain strongly committed to holding institutions of higher education accountable, including financial incentives for improved performance, and I look forward to working with the Legislature to develop a strong but realistic policy.

Finally, while I support the notion of holding institutions financially accountable for meeting a reasonable enrollment target, the sanction proposed by the Legislature is unworkable.

In order to address these and other issues, funding for each institution must be altered, and therefore I have vetoed most sections of the higher education budget.

#### Support for Working Families

The budget provides low levels of financial aid and support services for dislocated and unemployed workers and for low-income students in work-based learning programs. Community and technical colleges must continue to improve opportunities and assistance for parents who need to get off welfare and low-wage workers who need to improve their job skills.

The Basic Health Plan budget does not provide reasonable access to affordable health insurance for Washington's low-income working families. The budget would continue the current freeze on enrollment levels. Premium increases in the budget will make this insurance program unaffordable to many families. By increasing the cost of financial sponsorship (by community groups, family members and others who pay premiums on behalf of the previously uninsured) the budget would eliminate coverage for many current enrollees. The Legislature needs to improve funding for the Plan to keep the commitment made by members of both parties when much of the state's health reform act was repealed.

#### Meeting Our Responsibilities for Children and Others in Need

While I appreciate and applaud the improvements in children's services funding in the conference budget, compared to the original legislative budgets, one key issue still needs to be addressed: I urge the Legislature to add additional field staff for Children and Family Services. My budget included funding to ensure that the minimum legal and policy requirements would be met as the agency works to protect children from abuse and neglect.

The Legislature's budget also requires that General Assistance-Unemployable recipients needing alcohol or drug treatment be assigned a protective payee to protect their cash assistance. While I support the concept of protective payees in this program, the legislative budget proposes unnecessarily deep reductions in the General Assistance program. I cannot support policy changes that increase administrative costs when basic cash and medical assistance benefits are not adequately funded. We should be able to devise a final budget that provides increased accountability while meeting our responsibility to those unable to participate in the workforce.

Affordable child care is a crucial part of successfully moving people from welfare to work. I will work with the Legislature to devise a workable co-payment schedule for low income working parents supported by adequate funding in the budget.

#### Water and the Columbia River Gorge Commission

Water is critical for the state's economy, our fish and our quality of life. Funding for water issues in the Dept. of Ecology is not adequate. In addition, no funding is included for progress on water issues in the Departments of Health, Fish and Wildlife, and Community, Trade, and Economic Development. In order to break the water resources impasse, these agencies must have adequate funding for water resource management.

Although I have vetoed funding for water-related legislation that has not yet passed, my administration will continue to work

with legislators to reach agreement on these bills and a funding package. My intent is to keep our options for progress open. As water legislation reaches my desk, only adequately funded measures will be considered for approval.

The funding provided for the Columbia River Gorge Commission is inadequate to meet state and federal obligations under the National Scenic Area Act (P.L. 99-663) and the Scenic Area Compact (RCW 43.97). Failure to restore full funding is likely to result in the U.S. Secretary of Agriculture assuming direct control of all permitting within the scenic area under Section 14(e) of the act.

#### Juvenile Justice

The Department of Corrections and the Juvenile Rehabilitation Administration within DSHS are affected by the Juvenile Justice legislation currently being considered. I have been encouraged by the good faith efforts of the fiscal chairs to fully fund the legislation. At least one version currently under consideration would require a reallocation of resources among agencies without increasing the total funding. My vetoes are intended to take advantage of the opportunity to reallocate the funds to match the final bill.

#### Teacher and Other Compensation

K-12 teachers, Higher Education faculty and staff, certain vendors, and state employees have had one 4 percent cost of living adjustment in four years. The Legislature's budget proposes to provide one 3 percent increase in two years. In the past, teachers and other public employees have shared the burden of economic tough periods in budgets that provided no salary increases. This is not such a time. We have granted tax cuts and continue to have ongoing revenue we can spend under the Initiative 601 limit. By barely covering the one-half of the anticipated cost of inflation in the next two years, we risk losing our best teachers, faculty and other public servants. The legislative budget also lags implementation of SB 6767 salary adjustments. We can and must do better.

For these reasons, I have vetoed the following sections of the budget:

Section 125, pages 12-16 (Department of Community, Trade, and Economic Development);

Section 202, pages 27-31 (Department of Social and Health Services — Children and Family Services Program);

Section 203, pages 31-34 (Department of Social and Health Services — Juvenile Rehabilitation Administration);

Section 207 (1), page 43, General Assistance-Unemployable Program (Department of Social and Health Services — Economic Services Program);

Section 207 (6), pages 43-44, Child Care (Department of Social and Health Services — Economic Services Program);

Section 213 (1), page 49, Vendor Rate Increases (Department of Social and Health Services);

Section 214, pages 50-51 (State Health Care Authority);

Section 222 (2), pages 59-60 (Department of Corrections, Institutional Services);

Section 301, page 64 (Columbia River Gorge Commission);

Section 302 (3), (4), (5), and (6), pages 66-67; and (19), (20), (21), and (22), page 69, provisos relating to water bills (Department of Ecology);

Section 307, pages 72-75 (Department of Fish and Wildlife);

Section 501, pages 82-88, For State Administration (Superintendent of Public Instruction);

Section 503, pages 94-97, For Basic Education Employee Compensation (Superintendent of Public Instruction);

Section 504, pages 98-100, For School Employee Compensation (Superintendent of Public Instruction);

Section 510, pages 105-106, For Local Effort Assistance (Superintendent of Public Instruction);

Section 514, pages 107-108, Education Reform Programs (Superintendent of Public Instruction);

Section 515 (3), (4), (5), pages 109, For Transitional Bilingual Programs (Superintendent of Public Instruction);

Section 517, pages 110-112, Local Enhancement Funds (Superintendent of Public Instruction);

Section 601 through 609, pages 113-125 (Higher Education);  
Section 610 (1), (2), (3), pages 125-126 (Higher Education  
Coordinating Board — Policy Coordination and Administra-  
tion);

Section 611, pages 127-130 (Higher Education Coordinating  
Board — Financial Aid and Grant Programs);

Section 714, page 138 (Salary Cost of Living Adjustment); and  
Section 716, pages 139-140 (Compensation Actions of Person-  
nel Resources Board).

#### **Other Issues Needing Resolution**

While I have chosen to use my veto authority selectively to ad-  
dress major issues presented by the Legislature's budget, I am  
also concerned about several other areas of the budget. These  
include the level of funding for the Growth Management Hear-  
ings Boards, the Office of Financial Management, agencies for  
Health Policy, the Department of Natural Resources, and the  
State Patrol.

Of particular concern are reductions in the Department of  
Health budget and for the General Assistance-Unemployable  
program.

In the Department of Health, additional funding is required for  
the AIDS Prescription Drug Program to continue to make avail-  
able successful drug therapies both for current enrollees and an-  
ticipated demand. These drugs are proving very beneficial in  
improving the health and life expectancy of people with HIV.

In addition, I continue to place a priority on establishing a  
comprehensive Child Death Review system. Other states, in-  
cluding Oregon, have found real benefits for children in un-  
derstanding the causes of all child deaths in their states. I urge the  
Legislature to make this additional investment in our children's  
health and safety.

Finally, in the Department of Health, the 70 percent reduction  
in current funding levels for the pesticide program will harm the  
ability of farmers, workers and the public to use pesticides  
safely.

Reductions to the General Assistance-Unemployable program  
will result in discontinuation of cash and medical assistance for  
4,000 disabled people in communities throughout the state. Be-  
sides the human cost of this reduction, local governments, mer-  
chants, and social services agencies will bear the brunt of this  
reduction.

Budget discussions over the remaining days of the legislative  
session are an opportunity for us to resolve these important is-  
sues as well.

#### **Additional Vetoes**

In addition to the items above, I have also vetoed a number of  
items for the reasons set out below:

#### **Section 211 (3), page 47, (Department of Social and Health Services — Administration and Supporting Services)**

Consistent with my opposition to any measure which is divi-  
sive, hurtful or disrespectful of our fellow Washingtonians, I  
have vetoed this proviso.

#### **Section 212 (2), page 48, Child Support Waiver (Department of Social and Health Services — Child Support Program)**

This proviso requires the Department of Social and Health  
Services (DSHS) to request a waiver from federal support en-  
forcement regulations to replace current program audit criteria  
with performance measures based on program outcomes. The  
federal government has already replaced its process-based audit  
criteria with performance-based criteria. DSHS currently oper-  
ates under a performance-based agreement with the federal gov-  
ernment. There is no need for a waiver, therefore I have vetoed  
this proviso.

#### **Section 302 (17), page 68, Restriction on the purchase of special purpose (four-wheel drive) vehicles (Department of Ecology)**

Section 302 (17) requires the Department of Ecology (DOE) to  
reduce its fleet of special purpose vehicles by 50 percent by June  
30, 1999. In addition, DOE is required to replace the special  
purpose vehicles with fuel efficient vehicles or not replace them  
at all, depending on the agency's vehicle requirements. This re-  
striction will severely impair DOE's ability to reach remote ar-

reas to attain water quality samples, respond to oil and hazard-  
ous materials spills, and support the Washington Conservation  
Corps program.

#### **Section 719, page 142, Lines 6-26 (For the Office of Finan- cial Management — Regulatory Reform)**

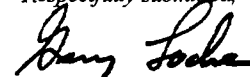
This section makes appropriations to the Office of Financial  
Management for allocations to agencies for the implementation  
of Engrossed Second Substitute House Bill 1032 (regulatory re-  
form) and Engrossed Substitute Senate Bill 5105 (state/federal  
rules). This funding is based on estimated impacts of an earlier  
version of House Bill 1032. It is not clear that the amount is  
sufficient for the current version of the bill, which reduces cer-  
tain costs but adds provisions that will impact a wider group of  
agencies. I am also concerned to find that no additional funding  
is provided to implement Engrossed Substitute Senate Bill 5105,  
which also requires agencies to review their rules, but on a dif-  
ferent schedule and with different criteria than the ones required  
under the House bill. On March 25, 1997, I signed an Executive  
Order requiring agencies to implement key features of regula-  
tory reform, including a review of their major rules; however, I  
do not expect agencies to be able to absorb the costs of doing  
multiple comprehensive reviews of their rules. For these rea-  
sons I have vetoed this proviso, to give the Office of Financial  
Management greater flexibility and will work with the Legisla-  
ture to perfect funding levels and language in the final budget.

#### **Section 916, page 154, Prohibition on expenditures for the Governor's Council on Environmental Education**

Section 916 prohibits the use of funds in the omnibus appro-  
priations act on the Governor's Council on Environmental Edu-  
cation. There are eleven state agencies that work with the  
state's environmental community and federal agencies on envi-  
ronmental education related activities. Funding for the Council  
is necessary to promote efficient and coordinated efforts in this  
area.

With the exception of sections 125; 202; 203; 207 (1); 207 (6);  
211 (3); 212 (2); 213 (1); 214; 222 (2); 301; 302 (3); 302 (4);  
302 (5); 302 (6); 302 (17); 302 (19); 302 (20); 302 (21); 302  
(22); 307; 501; 503; 504; 510; 514; 515 (3); 515 (4); 515 (5);  
517; 601; 602; 603; 604; 605; 606; 607; 608; 609; 610 (1); 610  
(2); 610 (3); 611; 714; 716; 719 (lines 6-26); and 916, Substi-  
tute Senate Bill 6062 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6063**

**PARTIAL VETO**

**C 235 L 97**

Adopting the capital budget.

By Senate Committee on Ways & Means (originally  
sponsored by Senators Strannigan and Fraser; by request  
of Governor Locke).

Senate Committee on Ways & Means  
House Committee on Capital Budget

**Background:** The programs and agencies of state gov-  
ernment are funded on a two-year basis, with each fiscal  
biennium beginning on June 30 of even-numbered years.  
The capital budget generally includes appropriations for  
the acquisition, construction, and repair of capital assets

## ESSB 6064

such as land, buildings, and other infrastructure improvements. Funding for the capital budget is primarily from state general obligation bonds, with other funding derived from various dedicated taxes, fees, and state trust land timber revenues.

**Summary:** The omnibus 1997-99 capital budget is adopted. The 1997 supplemental capital budget is also incorporated into the act. The budget authorizes \$1.884 billion in new capital projects, of which \$906.3 million is from new state bonds authorized for the 1997-99 biennium and \$5.7 million for the remainder of the 1997 fiscal year. Due to the elimination of \$14.6 million of previously authorized projects, the net new amount of general obligation bonds subject to the statutory debt limit is \$897.4 million. Reappropriations of \$1.2 billion are made for uncompleted projects approved in prior biennia.

The capital budget also authorizes state agencies to undertake various lease-purchase and lease development projects.

**Appropriation:** \$906 million from general fund-supported bonds for new capital projects for 1997-99. \$5.7 million from general fund-supported bonds for new projects for the remainder of fiscal year 1997. Other appropriations are made.

### Votes on Final Passage:

Senate	26	23	
House	54	41	(House amended)
Senate			(Senate refused to concur)

### Conference Committee

House	56	42
Senate	25	21

Effective: April 26, 1997

**Partial Veto Summary:** The following were eliminated: A \$10 million appropriation to the Department of Community, Trade, and Economic Development for emergency projects (Section 121); instructions to the State Parks Commission regarding the management of Rocky Reach Trailway (Section 391(4)); and Department of Ecology well regulation fees to local governments (Section 717).

### VETO MESSAGE ON SB 6063-S

April 26, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 121, 391(4) and 717, Substitute Senate Bill No. 6063 entitled:

"AN ACT Relating to the capital budget;"

The 1997-99 capital budget enacted by the legislature includes the investments in education facilities that will be necessary to serve the growing enrollments expected in public schools, our community colleges, and the four-year higher education institutions. This commitment must be maintained in future years, and represents the highest priority element of the state construction program. The capital budget I am approving is the appropriate next step in providing the educational facilities our citizens de-

serve, and sets in motion a long-term spending plan that will be adequate and affordable.

Although I am generally pleased with the budget as enacted, I do have some concerns and have vetoed the following sections:

Section 121, page 12. Emergency projects declared and specifically enacted by the legislature (Department of Community, Trade, and Economic Development)

The specific projects to be funded from this appropriation are not identified, so no work can be accomplished with these funds. I have vetoed this section to allow these appropriations to be redirected to projects and programs that are ready to proceed.

Section 391(4), page 75. Aquatic lands enhancement grants (Department of Natural Resources)

Subsection 4 of section 391 presents an undue restriction to the completion of the Rocky Reach Trailway project near Wenatchee. The State Parks and Recreation Commission has been developing this trail in cooperation with the Department of Transportation and adjoining property owners to complete a highly valued connection between two state parks. Trail development should continue as proposed. I am instructing the Commission to work closely with adjoining property owners to address any concerns they may have.

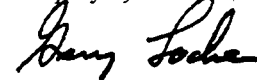
Section 717, page 144. Well regulation fees (Department of Ecology)

The proviso language in section 717 requires that when the Department of Ecology delegates to a county or local health district certain responsibilities related to well regulations, the county or health district would receive 75 percent of the well regulation fees paid. I have vetoed this section because the change in the fee sharing formula would reduce Department of Ecology revenues below the level necessary to administer the program. I encourage the Department to negotiate the cost of delegated responsibilities with the counties and local districts to develop a solution to this issue.

For these reasons, I have vetoed sections 121, 391(4) and 717 of Substitute Senate Bill No. 6063.

With the exception of sections 121, 391(4) and 717, Substitute Senate Bill No. 6063 is approved.

Respectfully submitted,



Gary Locke  
Governor

## ESSB 6064

C 456 L 97

Issuing bonds and managing bond retirement.

By Senate Committee on Ways & Means (originally sponsored by Senators Strannigan and Fraser; by request of Office of Financial Management).

Senate Committee on Ways & Means

**Background:** The State of Washington periodically issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge the full faith and credit and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate. Bond authorization legislation generally specifies the account or accounts into which



bond sale proceeds are deposited, as well as the source of debt service payments. The state general obligation bond retirement fund is used in most cases for bond retirement purposes.

When debt service payments are made from the bond retirement accounts, the State Treasurer withdraws the amounts necessary to make the payments from the state general fund and deposits them into the bond retirement funds. For reimbursable bonds, an equal amount is then transferred to the general fund from the source of the reimbursement.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for supervising and controlling the issuance of all state bonds.

**Summary: Bond Issuance Authorized.** The State Finance Committee is authorized to issue \$989 million of state general obligation bonds to finance projects appropriated in the 1997-99 capital and operating budgets. The bill specifies that the authority is only for appropriations made in the 1997-99 biennium. The proceeds of the sale of the bonds are deposited into three accounts: \$915 million is deposited into the state building construction account; \$1.6 million is deposited into the public safety reimbursable bond account; and \$41.3 million is deposited into the higher education construction account.

The State Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds and to deposit these amounts into the bond retirement account. However, for bond proceeds deposited into the public safety reimbursable bond account, the State Treasurer is to transfer the amounts necessary to the make principal and interest payments on the bonds to the appropriate bond retirement account from the public safety and education account. For bond proceeds deposited into the higher education construction account, the State Treasurer is to transfer the amounts necessary to the make principal and interest payments on the bonds to the appropriate bond retirement account from amounts paid to him by the University of Washington from nonappropriated local funds.

**New Bond Retirement Accounts.** Eight new bond retirement accounts are created: The debt-limit general fund bond retirement account; the debt-limit reimbursable bond retirement account; the nondebt-limit general fund bond retirement account; the nondebt-limit reimbursable bond retirement account; the nondebt-limit proprietary appropriated bond retirement account; the nondebt-limit proprietary nonappropriated bond retirement account; the nondebt-limit revenue bond retirement account; and the transportation improvement board bond retirement account. These accounts are used for debt service on existing bond issues.

**Existing Bond Authorizations Modified.** The \$1,284 million general obligation bond authorization for the

1991-93 biennium is reduced by \$12.9 million to \$1,271.1 million. Energy efficiency construction account bonds of \$15 million are eliminated and energy efficiency services account bonds of \$3.0 million are decreased to \$2.8 million.

The \$811 million general obligation bond authorization for the 1995-97 biennium is increased by \$56.2 million to \$867.2 million. Of this increase, the authorization for the state building construction account is decreased by \$5.4 million and the authorizations for the outdoor recreation account and the habitat conservation account are each increased by \$2.5 million.

**Votes on Final Passage:**

Senate	41	8
House	96	2

**Effective:** May 20, 1997 (Sections 9-43)  
July 27, 1997

**ESSB 6068**

C 405 L 97

Enhancing legal advertising of state measures.

By Senate Committee on Ways & Means (originally sponsored by Senators West, Spanel and Oke; by request of Secretary of State).

Senate Committee on Ways & Means

**Background:** The state Constitution requires a vote of the people to amend the Constitution. Proposed state laws may also be subject to a vote of the people under the referendum provisions of the state Constitution. Article II, Section 1(e) requires the Legislature to establish methods of publicizing state referenda and proposed constitutional amendments, including arguments for and against the proposed measures.

State law requires the Secretary of State to satisfy this requirement by publishing a state Voters' Pamphlet and also by purchasing advertising in every legal newspaper in the state at least four times prior to the election. (To qualify as a legal newspaper, a publication must contain general news and be published at least weekly.) The advertisement must contain the ballot title of the state measure, its legal identification, a statement of the current law and the effect of the proposed measure, and the total number of votes cast for and against the measure in the Legislature.

These advertisements are required to be supplemented by radio and television advertising. The state also mails a state Voters' Pamphlet to every residence in the state. In addition to the information contained in the advertisements, the Voters' Pamphlet also includes arguments for and against the proposed measure, and the full text of the measure. This information is also available on the Internet.

**Summary:** Statutory requirements for the publication of advertisements on proposed state measures are modified. The advertisements may appear up to four times in each legal newspaper, subject to the availability of appropriated funds. The advertisements are to be supplemented by an equivalent amount of broadcast advertisements. The advertisements may include all or some of the specific information that was previously required to be included. The advertisements cannot identify or refer to any candidate or incumbent public official.

**Votes on Final Passage:**

Senate	46	1
House	93	4

**Effective:** July 27, 1997

**ESB 6072**  
C 268 L 97

Changing the timelines for development and implementation of the student assessment system.

By Senators West and Spanel; by request of Office of Financial Management.

Senate Committee on Education

**Background:** The Commission on Student Learning (CSL) was created by the Legislature in 1992 to identify the knowledge and skills needed by all public school students, to develop student assessment and school accountability systems, and to take other steps necessary to improve student learning in the state.

*Goal 1 and Mathematics:* The elementary, middle and high school assessments developed by CSL for Goal 1 (reading, writing, and communication), and mathematics are required to be available for voluntary use in the 1996-97 school year.

*Goal 2 (except Mathematics):* The elementary, middle, and high school assessments developed for Goal 2 (the sciences, history, geography, civics, health and fitness and the arts) are required to be available for voluntary use by the 1998-99 school year.

*Goals 3 and 4:* The assessments for Goals 3 (critical thinking) and 4 (understanding the importance of work) are required to be available for voluntary use by the 1998-99 school year. The assessments must integrate knowledge and skill areas to the maximum extent possible.

*Initial Implementation of Assessments:* The State Board of Education (SBE) and the Superintendent of Public Instruction (SPI) initially implement the assessments.

*Legislative Review:* The joint select committee was created by the Legislature in 1993 to monitor, review and annually report to the full Legislature on the implementation of education reform, including the work of CSL.

*Mandatory Use of the Assessments:* All school districts are required to administer the assessments beginning in the 2000-01 school year.

*Accountability System:* By June 30, 1999, CSL must recommend a statewide accountability system, including a school assistance program, an intervention system for failing schools, and an awards program.

*Certificate of Mastery:* CSL must develop a Certificate of Mastery (COM). The COM is to be evidence that the student has successfully mastered the essential academic learning requirements and successfully completed the high school assessment. It is anticipated that most students will obtain the COM at about the age of 16. Achievement of a COM is a high school graduation requirement, but not the only requirement.

**Summary:** The timelines for the availability and mandated use of the student assessments and the availability of the school accountability systems are modified, and the developing and initial implementing entity is clarified.

*Goal 1 and Mathematics:* The timeline for the elementary school assessment is not changed from the 1996-97 school year.

The middle school assessment is delayed one year but must be available for the 1997-98 school year. The high school assessment is delayed two years but must be available for the 1998-99 school year.

*Goal 2 (except Mathematics):* The timeline for the availability of the middle and high school assessments for the sciences is not changed from the 1998-99 school year. The elementary science assessment must be available by the 2001-02 school year.

SPI is required to continue the development of Goal 2 assessments, so that history, geography, civics and the arts at the middle and high school levels are available by the 2000-01 school year, and the health/fitness assessments available at the middle and high school levels are available by the 2001-02 school year. Assessments in social studies, arts, and health/fitness at the elementary level are not addressed.

*Goals 3 and 4:* It is clarified that Goals 3 and 4 are integrated into the Essential Academic Learning Requirements (EALRs) and the assessments for Goals 1 and 2.

*Initial Implementation of Assessments:* The state entity responsible for initially implementing the assessments is changed from SBE and SPI to CSL. The completed assessments and assessments still in development must be transferred from CSL to SPI on June 30, 1999.

*Legislative Review:* CSL and SPI must provide opportunities for the education committees of the Legislature to review the assessments and proposed modifications to the EALRs before modifications are adopted.

*Mandatory Use of the Assessments:* Beginning in the 1997-98 school year, the elementary assessment for reading, writing, communications, and math is mandatory.

By December 15, 1998, CSL must recommend to the Legislature a revised timeline for implementing the student assessments and when districts shall be required to participate. The history, civic, geography, arts, health/fit-

ness and elementary science assessments are mandatory three years after the assessments are available.

Beginning in the 2000-01 school year, the middle and high school assessments for reading, writing, communications, math, and science are mandatory.

*Accountability System:* By November 1, 1997, CSL must recommend a statewide accountability system for K-4 reading. By June 30, 1999, the CSL must recommend a state-wide accountability system for other subject areas and grade levels.

*Certificate of Mastery:* By September 1997, CSL, SBE and SPI must present joint recommendations to the Education Committees of the Legislature on specified issues regarding the high school assessments, the certificate of mastery, and high school graduation requirements.

**Votes on Final Passage:**

Senate	44	5
House	54	41

**Effective:** May 6, 1997

**ESB 6094**  
**PARTIAL VETO**  
C 429 L 97

Changing growth management provisions.

By Senators McCaslin and Haugen; by request of Governor Locke.

**Background:** The Land Use Study Commission was created by the 1995 Legislature. The commission examined the consolidation of state land use and environmental laws, and completed a report and recommendations with respect to the Growth Management Act (GMA) and related state laws.

Since its passage in 1990, over 155 counties and cities have adopted comprehensive plans under the authority of GMA.

**Summary:** *Rural Intent.* Local comprehensive plans and development regulations require counties and cities to balance priorities and consider local circumstances. The ultimate responsibility for planning and implementing a county's or city's future rests with that community. The growth management hearings boards are to apply a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard.

The Legislature recognizes the importance of rural lands and rural character, but seeks to recognize regional differences in rural-based economies. Counties should develop a local vision of rural character and land use patterns that will help preserve rural-based economies and traditional rural lifestyles and enhance the rural sense of community and quality of life.

In accordance with one of the GMA goals, the property rights of landowners must be protected from arbitrary and discriminatory actions.

**Standard of Review.** The Legislature intends to change the standard of review that applies to board review of county and city comprehensive plans and development regulations. The intent section refers to the broad range of discretion counties and cities are given under GMA and increases the deference to local decisions by changing the standard of review from "preponderance of the evidence" to "clearly erroneous." In determining whether all or part of a comprehensive plan or development regulations are invalid, the standard of review is changed to "arbitrary and capricious."

A finding of substantial interference with GMA goals, which is necessary for the boards to find invalidity, requires evidence of actual interference and may not be based on hypothetical or speculative development potential.

In reviewing the actions of a state agency, county, or city, the board must consider whether the action was clearly erroneous in light of the entire record before the board, and in light of the goals and requirements of GMA. If a board issues an order of invalidity to a county or city, the county or city bears the burden of demonstrating that the ordinance or resolution it has enacted in response to that invalidity order will no longer "substantially interfere" with the fulfillment of the goals of GMA.

In reviewing board orders, a court may affirm, set aside, enjoin, remand, order the board to rescind or modify, or enter an order of compliance or noncompliance.

**Definitions.** "Rural character" is defined to mean the patterns of land use and development established by a county where specified circumstances are present.

"Rural development" is defined as development outside the urban growth area and outside lands that have been designated as agricultural, forest, or mineral resource lands. Rural development may consist of diverse uses and densities as long as they are consistent with the preservation of rural character and the requirements of the rural element.

"Rural governmental services" means public services and public facilities typically delivered at an intensity customarily found in rural areas and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas.

The definition of "urban growth" is amended to clarify the relationship with the rural element and natural resource lands and urban growth. The definition provides that a pattern of more intensive rural development is not urban growth.

**The Rural Element.** The county must document in writing how the rural element of its comprehensive plan harmonizes the planning goals of GMA and meets the planning requirements in GMA. Rural areas may provide for a variety of rural densities and uses. Counties may provide for limited areas of more intensive rural development, including certain necessary public facilities and

services. The county must adopt measures to minimize and contain the existing areas or uses of more intensive rural development.

Small-scale businesses are included in rural development. Small-scale businesses and cottage industries are not required to serve the rural population. Intensified development of cottage industries and small-scale businesses is allowed. However, a major industrial development or a master planned resort is not allowed under these provisions, and are allowed only if specifically permitted under other statutes.

The requirement that residential and nonresidential uses shall not require urban services, and that nonresidential rural development shall serve and provide jobs for the existing and projected rural population, applies only to a county with a population of 95,000 or more and that has committed 5 percent or more of its land base to urban growth and that has no more than 80 percent of its land base in public ownership or resource lands.

Rural residential densities may include clustered residential developments.

**Public Participation Requirements.** Counties and cities planning under GMA must adopt procedures that are reasonably calculated to notify property owners and others affected by or interested in amendments to a comprehensive plan and development regulations. The procedures may include posting property, publishing notice in newspapers and publications, notifying specific groups or individuals, and sending notices to mailing lists.

A county or city that considers a change to an amendment to a comprehensive plan or development regulation must provide for public comment on the proposed change before its adoption if it has not been previously available for public comment. Additional public comment is not required if the proposed change has already been discussed, relates to a capital budget decision, enacts an interim control, or is only technical in nature.

**Amendments to Comprehensive Plans.** A county or city may make more than annual amendments to its comprehensive plan if the amendment pertains to the capital facilities element and occurs simultaneously with the adoption of the county or city budget.

**Compliance with the Administrative Procedure Act.** The board must comply with the Administrative Procedure Act (APA), a uniform law governing conduct by agencies, hearings boards created by those agencies, and judicial review of hearing board decisions, unless the APA conflicts with a specific provision of GMA. The board is specifically directed to comply with the APA with respect to *ex parte* communications.

**Limitations on Issues.** The authority of the boards to render decisions is modified. The decision must be in writing and must articulate the basis for its holding on issues that have been presented to it in a petition. The board may not render advisory opinions on issues not presented for review.

**Direct Review to Superior Court.** A board may certify a case directly to superior court for review if all parties to the case agree in writing to direct review to superior court. The parties have up to ten days from the time the petition is filed to file a written agreement with the board.

More detailed procedures are added for direct review in superior court.

**Court of Appeals.** Appeals of final board decisions are filed in the Court of Appeals for assignment by the chief presiding judge to the appropriate panel for review.

**Extension of Time for Board Decisions.** A board may extend the time for issuing a decision beyond the 180-day period currently provided by GMA to allow settlement negotiations to proceed, if the parties agree to the extension. The boards may allow up to 90 additional days, and the extension may be renewed. If a board determines that a plan or development regulation does not comply with GMA, the board may establish a compliance schedule that goes beyond 180 days if the complexity of the case justifies an extension. The board may also require periodic updates on progress towards compliance as part of the compliance order.

**Invalidity.** An order of invalidity is only prospective in effect. The order does not affect an application filed prior to receipt of a board's determination of invalidity, nor does the order affect vested rights. If a city or county wants an order lifted, it must only demonstrate that it has taken sufficient measures such that it is no longer "substantially interfering" with the goals of GMA (the same standard that leads to invalidity). In addition, a county or city is explicitly allowed to take interim actions to which applications may vest if the board approves. A county or city may request clarification, modification, or rescission of the order. The board must expeditiously schedule a hearing on the motion, and a decision on the motion must be issued within 30 days.

A county or city subject to an order of invalidity issued prior to the effective date of this act may request the board to review its order in light of the changes to the invalidity provisions. If requested, the board must rescind or modify an order to make it consistent with these changes.

**Compliance Proceedings.** The board may modify a compliance order and allow additional time for compliance with GMA requirements in appropriate circumstances. The board is directed to take into account a county or city's progress toward compliance with GMA requirements in making its decision as to whether to recommend the imposition of sanctions by the Governor.

**Agricultural Zoning.** A county or city may implement a variety of zoning techniques in designated rural areas. The techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Nonagricultural uses should be limited to lands with poor soil or otherwise not suitable for agricultural uses.

**Monitoring and Evaluation of Plans.** Six western Washington counties (Snohomish, King, Pierce, Kitsap, Thurston, Clark) and their cities are required to establish a

monitoring and evaluation program to determine whether the countywide planning policies are meeting planned residential densities and uses. The evaluation must be conducted every five years. If the evaluation shows that the densities are not being met, the county and its cities must take measures to increase consistency between what was envisioned and what has occurred. The county may only expand an urban growth boundary after three years of taking measures if it determines that those measures have not been successful. The Department of Community, Trade, and Economic Development (CTED) must provide grants and technical assistance to the counties and to cities to implement these requirements.

Other counties and their cities planning under GMA must continually renew and evaluate their comprehensive plans and development regulations to ensure that the plan and regulations are complying with GMA requirements. This review may be combined with the monitoring and evaluation program.

Cities, as well as counties, must include sufficient areas and densities to permit projected urban growth.

The Office of Financial Management (OFM) must prepare 20-year population forecasts every five years, instead of ten, or upon the availability of decennial census data, whichever is later.

**Planning and Environmental Review Fund.** CTED is directed to encourage participation in the grant program by other public agencies through the provision of grant funds. CTED must also develop the grant criteria, monitor the grant program, and select grant recipients in consultation with state agencies participating in the grant program. Grants from the planning and environmental review fund are to be provided for proposals designed to improve the project review process and which encourage the use of GMA plans to meet the requirements of other state programs.

Additional language is added to provide consistency with provisions relating to the fund and its purposes.

**Tax Issues.** The provisions governing access to the current use taxation program are modified to include land designated for long-term agriculture under GMA or located outside an urban growth area and designated as agricultural land.

In valuing designated natural resource lands for property tax purposes, a county assessor may not include comparable sales that have been converted to nonagricultural, nonforest, or nonopen-space uses within five years after the sale.

**Tax Exemptions.** The program of tax incentives that allows cities with populations over 150,000 to provide a ten-year property tax exemption for multi-family housing in urban centers is expanded to allow cities with a population of at least 100,000 to be eligible. If no city has a population of at least 100,000, the largest city in a county becomes eligible for the property tax exemption.

Cities may adopt low or moderate income occupancy requirements to allow tax exemptions for construction/renovation of multi-unit buildings in urban centers.

**Permit Assistance Center.** The Permit Assistance Center's responsibilities are expanded to include collecting and providing information on programs used by public agencies that use private professional expertise to assist in project review.

**Annexation Requirements.** A code city planning under GMA may annex islands of unincorporated territory surrounded by the city if at least 80 percent of the island's boundaries are contiguous to the city prior to July 1, 1994, and the island contains residential property owners. Territory bounded by a water body is considered to be contiguous for purposes of determining whether the territory is an island if the city is also bounded by the same river, lake, or other body of water. The annexation of the islands remains subject to referendum.

Any noncode city or town planning under GMA, by resolution, may implement the annexation procedures for islands made available to code cities without being subject to a referendum process.

A boundary review board reviewing a proposed annexation must consider GMA comprehensive plans, service agreements, and annexation agreements in reaching its decisions.

**Land Use Study Commission.** Eight members are added to the commission. Four are legislators, and the additional four are representatives of a modified list of interest groups, including livestock producers, irrigated agriculture, dryland farmers or major crop commodity producers, operators of small businesses and owners of small property holdings. The latter four members are appointed by the Governor.

**Duties of Land Use Study Commission.** The commission is directed to study the continuing need for growth boards and to make recommendations for the implementation of a possible sunset of the boards, change of boards to an advisory role, or other changes. The commission is also directed to evaluate the standard of review and invalidity issues.

**Regulatory Reform.** The responsibility for rule-making is modified with respect to the consistency of project actions. CTED, with the Department of Ecology (DOE), must develop criteria to assist local governments in analyzing project consistency.

A local government that is a project proponent or is funding a project to complete its State Environmental Policy Act review is allowed to appeal procedural determinations prior to submitting a project permit application.

Shoreline master programs adopted by DOE before the effective date of ESHB 1724 are deemed approved. Clarification is provided with regard to shoreline permit timelines.

**Wetlands.** Counties and cities are allowed to exempt emergency activities, and activities with minor impacts on critical areas, from critical areas development regulations.

**GMA "Flex."** Counties planning under GMA are allowed, after conferring with their cities, to adopt alternative methods for achieving GMA planning goals.

**Adverse Possession.** Plat greenbelts and open space areas dedicated to a public agency or bona fide homeowner's association are removed from adverse possession claims.

**Loans.** An exception is provided to the requirement that a local government must have adopted its comprehensive plan and development regulations in order to qualify for loans or pledges for public work projects and water pollution facilities if there is a public health need or substantial environmental degradation.

This act is prospective in effect.

**Votes on Final Passage:**

Senate	47	1	
House	62	36	(House amended)
Senate	30	18	(Senate concurred)

**Effective:** May 9, 1997 (Sections 29 and 30)  
July 27, 1997

**Partial Veto Summary:** Sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45 and 52 of the bill were vetoed.

The changes to the rural intent section were vetoed.

Also vetoed was GMA "flex," which allowed counties planning under GMA to confer with their cities and adopt alternative methods for achieving GMA planning goals.

The wetlands provisions were eliminated. These provided that the goal of the state is to achieve no overall net loss of wetland functions. In adopting critical areas development regulation, counties and cities should balance all of the GMA goals, not giving any one goal precedence. Counties and cities could prioritize the goals in accordance with local history, conditions, circumstances, and choice. Counties and cities would have been allowed to exempt emergency activities, and activities with minor impacts on critical areas, from critical areas development regulations.

Section 8 was vetoed, which would have provided, for certain counties, that developments in rural areas shall not require urban services and shall be principally designed to serve and provide jobs for the local rural population.

Appeals of board decisions to the Court of Appeals was vetoed, along with section 52, which was a technical change to effectuate this section.

The "arbitrary and capricious" standard of review was eliminated.

The requirement that a determination of substantial interference must be based on actual evidence with regard to determining invalidity was vetoed.

Also vetoed were provisions which would allow a court reviewing an order of invalidity to affirm, set aside, enjoin, or remand board orders, or to enter an order of compliance or noncompliance.

The addition of new members to the Land Use Study Commission was eliminated, as well as additional duties imposed on the commission.

**VETO MESSAGE ON SB 6094**

May 19, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52, Engrossed Senate Bill No. 6094 entitled:

"AN ACT Relating to growth management,"

This bill, enacting the recommendations of the Land Use Study Commission, was introduced at my request. However, the bill was amended significantly in the legislative process. Therefore, I have listened to the input of a broad range of interests and conducted a thorough review of all of the provisions of the bill as passed by the Legislature.

I have maintained throughout the 1997 legislative session that the consensus recommendations of the Land Use Study Commission, comprising representatives of business, agricultural, local and state government, neighborhood activists and environmentalists, should provide the framework for the debate over how best to improve the state's Growth Management Act. I thank the members of the commission for their diligent work, developing a variety of issue papers, conducting hours of public hearings, and developing a well-reasoned and well-crafted legislative proposal.

As I reviewed this bill as passed by the legislature, I always kept in mind the framework for the analysis provided by the Commission. I believe that this bill will go a long way toward resolving many of the specific concerns people have had with the way the Growth Management Act has worked since it was first enacted. Among other things, this bill provides greater deference to the decisions of local elected officials throughout the state, improves public participation in the growth management process, and gives the Growth Management Hearings Boards the added direction they need in resolving some very difficult land use issues. I have signed every section of this bill that includes the language proposed by the Land Use Study Commission, as well as some other sections. However, I was unable to sign the bill in its entirety and have vetoed the following sections.

Section 1 changes the intent section recommended by the Land Use Study Commission. The language of the recommended intent section represented a fine balance of the interests represented on the Commission and should not have been altered, thereby implying an intent that was not agreed to by the Commission.

Section 4 provides that a county, after conferring with its cities, may develop alternative methods of achieving the planning goals of the Growth Management Act. This GMA-flex option was briefly discussed by the Land Use Study Commission and dismissed without recommendation because it is an issue that represents a major change in direction and needs much more discussion and refinement before it is a viable alternative.

Section 5 states that the goal of the state is to achieve no overall net loss of wetland functions. This section also provides that in adopting critical areas development regulations, counties and cities should balance all of the goals of the GMA and that the legislature intends that no goal takes precedence, but that counties and cities may prioritize the goals in accordance with local history, conditions, circumstances, and choice. This issue was not addressed by the Land Use Study Commission and seems to me to be inconsistent with the tenor of the Commission's recommendations.

Section 6 allows for exemptions from critical area development regulations for emergency activities and activities with mi-

nor impacts on critical areas. This idea was not considered by the Land Use Study Commission. This change in policy would have to be fully explored before I could be comfortable signing it into law.

Section 8 provides that in certain counties, developments in rural areas shall not require urban services and shall be principally designed to serve and provide jobs for the local rural population. This section creates confusion because it states a rule that currently applies in all counties planning under the Growth Management Act, but implies that the rule applies only to specific counties. Section 7 of this bill provides all the direction needed by counties to plan for the rural element, including guidelines for rural development.

Section 7 provides that the rural element shall permit rural development providing for a variety of rural densities, uses, essential public facilities, and rural governmental services to serve the permitted densities and uses in the rural element. There are three exceptions in which businesses in the rural element are not required to be principally designed to serve the existing and projected rural population. These exceptions are: (1) infill of existing development; (2) small-scale recreational or tourist uses; and (3) development of cottage industries and small-scale businesses. Therefore, section 8 is unnecessary, confusing, and potentially more restrictive in certain counties than are the recommendations of the Land Use Study Commission embodied in section 7.

Section 15 provides that all appeals of Growth Management Hearings Board decisions shall be filed directly in the Court of Appeals. This is not a recommendation of the Land Use Study Commission and I am not certain that it would be in the best interest of the parties who appear before the boards. Most parties believe that Superior Court review of board decisions is appropriate and is working well.

Section 17 establishes a new and higher standard for findings of invalidity - the "arbitrary and capricious" standard. I believe this would strip too much authority from the Growth Management Hearings Boards and severely weaken the important state role in the Growth Management Act.

Section 18 adds language to the Land Use Study Commission recommendation which clarifies the current expedited review provision relating to orders of invalidity. The new language creates a burden on those who challenge land use decisions that in many instances would be impossible to meet, because the plan or regulation has not been in effect long enough to have caused actual harm. In some instances there is no prudent policy justification for waiting until actual harm can be proven before allowing the invalidation of a comprehensive plan or development regulation.

Section 19 would allow the Superior Court, when reviewing an order of invalidity, to: affirm, set aside, enjoin, or remand orders of the Growth Management Hearings Boards; or enter a declaratory judgment of compliance or noncompliance, which may include an order of invalidity setting out the particular part or parts of the plan or regulation that are invalid. This was not a recommendation of the Land Use Study Commission and was not the subject of any other bills introduced this session. The concept received no public scrutiny or debate. This provision could have the unintended effect of providing for review of a comprehensive plan without the court having the benefit of the entire record.

I recognize that there is not enough money provided in the operating budget (ESHB 2259) to accomplish the full purpose of section 25. However, by approving section 25 of this bill and section 103(4) of the operating budget, I am indicating my commitment to beginning the work of reviewing and evaluating the effectiveness of the growth management act in achieving the desired densities in urban growth areas. To accomplish this, I will work with the legislature to identify additional resources, a cost recovery program, or other means to assure sufficient funding to allow the first evaluations to be completed by the September 1, 2002 deadline.

By approving sections 29 and 30, I have approved the use of the Public Works Trust Fund and the Centennial Clean Water Fund to address critical or emergent public health and existing environmental problems related to infrastructure in jurisdictions that are not currently in compliance with the Growth Management Act. I am very concerned that this legislation not be used as a method to provide unrestricted access to these accounts for local governments that are not in compliance with the law. For this reason, I have directed the Department of Health, the Department of Ecology, the Department of Community, Trade and Economic Development, and the Public Works Board to interpret this new authority conservatively.

Section 44 would add new members to the Land Use Study Commission. I am concerned that the Commission may already be unable to meet its time schedule for completing its ambitious work plan. The selection and appointment of new members to the Commission is likely to cause delay in the Commission's process. Furthermore, I believe the Commission is currently well-balanced in its composition. I would like to see that same balance maintained for the last year of the Commission's work. However, I do encourage interested legislators to attend the meetings of the Commission and to provide input when appropriate.

Section 45 amends the charge given to the Land Use Study Commission by adding the following requirements: (1) Review long-term approaches for resolving disputes that arise under the Growth Management Act, the Shoreline Management Act, and other environmental laws, including identifying needed changes to the structure of the boards that hear environmental appeals; (2) If the LUSC determines that there is no longer a need for the Growth Management Hearings Boards, recommend a plan for sunseting the boards; and (3) Evaluate the effect of the changes to the standard of review and make recommendations raising the standard of review, limiting the authority of the boards to make determinations of invalidity, or making other changes.

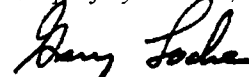
The ambitious Land Use Study Commission work plan for 1997-98 already includes much of the work proposed in section 45. However, I am concerned that the language of this section has the unintended effect of predetermining a result or, at least, a range of results. I encourage the Land Use Study Commission to review as many of these issues as it can reasonably fit within its crowded work plan and narrow time constraints.

Section 52 makes a technical change to effectuate the purpose of section 15, which I have vetoed.

For the reasons stated above, I have vetoed sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52 of Engrossed Senate Bill No. 6094.

With the exception of sections 1, 4, 5, 6, 8, 15, 17, 18, 19, 44, 45, and 52, Engrossed Senate Bill No. 6094 is approved.

Respectfully submitted,



Gary Locke  
Governor

ESB 6098

C 57 L 97

Relating to human services.

By Senator West.

**Background:** The federal Welfare Reform Act (P.L. 104-193) disqualifies legal immigrants from many forms of public assistance. Each state may decide whether or not to provide immigrants with benefits. Generally, public as-

## ESB 7900

sistance for immigrants must be paid for with state, rather than federal funds.

**Summary:** Washington State exercises its option under the federal act to continue to make public assistance available to legal immigrants. Types of assistance include Temporary Assistance for Needy Families, Medicaid and social services block grant programs. For legal immigrants arriving after federal enactment (August 22, 1996), assistance is limited to families in which the parent or legal guardian resides in Washington for one year prior to application for assistance.

Legal immigrants losing Supplemental Security Income (SSI) are immediately eligible for the General Assistance-Unemployable Program.

Federal sponsor deeming requirements apply to legal immigrants for a period of five years, but are waived if the sponsor dies or is permanently incapacitated during the deeming period.

The Department of Social and Health Services may establish a food assistance program for legal immigrants meeting the eligibility standards for federal food stamps.

### Votes on Final Passage:

Senate	48	0
House	97	0

**Effective:** July 27, 1997

## ESB 7900

C 406 L 97

Implementing the model toxics control act policy advisory committee recommendations

By Senators Swecker, Fraser, Anderson, Rasmussen, Zarelli, Oke, Goings, Morton, Haugen, Hale, Spanel, Rossi, Johnson, Schow, Kohl, Sellar, Franklin, Horn, Kline, McAuliffe and Winsley.

Representatives Sheahan, Ballasiotes, Schoesler, Bush, Honeyford, Carrell, Chandler, Mitchell, Clements, Huff, Thompson, Hankins, Mulliken, Koster, Carlson, Caines, Cooke, Johnson, Skinner, Mastin, Smith, Crouse, Benson, Alexander, Talcott, Robertson, Lisk, Zellinsky, Boldt, Delvin, Sterk, Lambert, Hickel, Backlund and Pennington.

Senate Committee on Agriculture & Environment

Senate Committee on Ways & Means

House Committee on Agriculture & Ecology

**Background:** The Model Toxics Control Act (MTCA) was adopted through the initiative process in 1988. In 1995, the Legislature created the MTCA Policy Advisory Committee to review implementation of MTCA and make recommendations to the Department of Ecology and to the Legislature. The legislative recommendations address a number of provisions in the Model Toxics Control Act.

**Liability.** Under MTCA, the owner of a contaminated site, the owner at the time of waste disposal, and any per-

son generating or transporting the hazardous waste may be jointly or severally liable for the costs of site cleanup. The Department of Ecology currently has a policy of nonenforcement against owners of a property that overlies a contaminated groundwater plume, if the property is not a source of contamination and the property owner has not contributed to the contamination. However, there is no exemption from liability in the statute.

**Settlement Agreements.** Potentially liable persons may settle their liability with the state if their contribution to the site contamination is insignificant in amount and toxicity, or if the persons are not currently liable and are proposing to purchase or redevelop a contaminated site. The settlement agreement may include a covenant not to sue, which precludes future enforcement of MTCA against the settling party. If the property is subsequently transferred, the covenant not to sue is not automatically transferred to the new owner. This may create a disincentive for the sale or redevelopment of a site which has been subject to a remedial action.

In addition, settlement with a person proposing to purchase or redevelop a contaminated site must provide a "substantial public benefit." The Policy Advisory Committee found that this requirement may unreasonably limit the availability of prospective purchaser agreements, and discourage brownfields redevelopment.

**Independent Remedial Action.** Approximately 90 percent of sites are currently cleaned up independent of Department of Ecology oversight. The majority of these cleanups are underground storage tank removals. If a property owner chooses to do an independent cleanup, the results of the cleanup must be reported to the Department of Ecology within 90 days. Ecology may require further remedial action if the cleanup is found to be inadequate. Under the Independent Remedial Action Program, the Department of Ecology will review the results of an independent cleanup for a fee. Once the review is complete, if the cleanup is satisfactory, the department provides the owner with a written determination of no further action, which can benefit the owners at the time of property transfer or redevelopment. The Policy Advisory Committee found that all owners conducting independent cleanups would benefit from technical assistance and guidance from an experienced Department of Ecology site manager. This technical assistance is not currently authorized in statute.

**Public Participation.** One percent of the money deposited in the state and local toxics control accounts is allocated for public participation grants. The grants are limited to \$50,000.

**Summary: Liability.** The owner of a site that overlies a plume of contaminated groundwater is not held liable for the contamination. To be eligible for this exemption, an owner must demonstrate that hazardous substances used on the site have not contributed to the contamination, and



agree to allow access to the property and not to interfere with cleanup of the contaminated groundwater.

*Settlement Agreements.* A consent decree, such as a covenant not to sue, may be transferred to a subsequent owner of the property unless the consent decree is based on circumstances unique to the settling party. For consent decrees entered before the date of the act, the settling party may request an opinion from the Attorney General on whether unique circumstances exist which would limit the transferability of the consent decree.

The purpose of allowing a settlement agreement with a person proposing to purchase or redevelop a contaminated property is to promote the cleanup and reuse of vacant commercial or industrial property. Since the state does not have adequate resources to participate in all property transactions involving contaminated property, the Attorney General may give priority to settlements that provide a substantial public benefit.

*Independent Remedial Action.* The Department of Ecology is directed to provide advice and assistance to persons conducting independent remedial actions. Assistance may include opinions on whether remedial action is necessary. The Department of Ecology may collect the costs incurred in providing advice and assistance. Where appropriate, costs may be waived to support public participation.

*Public Participation.* Grants for public participation are not to exceed \$60,000.

A public hearing is required prior to entering a settlement agreement with a potentially liable person if at least ten people request one, or the Department of Ecology determines a hearing is necessary.

**Votes on Final Passage:**

Senate	46	0	
House	94	0	(House amended)
Senate	43	1	(Senate concurred)

**Effective:** July 27, 1997

**ESB 7902**  
**FULL VETO**

Lowering business and occupation tax rates.

By Senators Hale, Bauer, McDonald, Haugen, Sellar, Prentice, McCaslin, Rasmussen, West, Newhouse, Heavey, Swecker, Hargrove, Fraser, Johnson, Morton, Patterson, Rossi, Kline, Anderson, Jacobsen, Strannigan, Prince, Finkbeiner, Oke, Winsley, Long, Stevens, Horn, Benton, Schow, Wood, Roach, Deccio, Zarelli and Goings.

Representatives Robertson, Talcott, Sheldon, B. Thomas, Lambert, D. Schmidt, Pennington, D. Sommers, Johnson, Huff, Sterk, Mulliken, Sheahan, Thompson, Bush, Gardner, Dunn, Kenney, Alexander, Clements, Backlund,

Cooke, O'Brien, Dunshee, Morris, Honeyford, Koster, Wolfe, Ogden and Schoesler.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities (except utility activities) conducted within the state. There are no deductions for the costs of doing business. Although there are several different rates, the principal rates are:

Manufacturing/wholesaling/extracting	0.506%
Retailing	0.471%
Services	
- Business Services	2.0%
- Financial Services	1.6%
- Other activities	1.829%

In 1993, the B&O tax rate on selected business services was increased from 1.5 percent to 2.5 percent, the rate on financial businesses was increased from 1.5 percent to 1.7 percent, and the rate on all other services was increased from 1.5 percent to 2 percent. Also in 1993, the B&O tax was extended to public and nonprofit hospitals at the rate of .75 percent through June 30, 1995, and 1.5 percent thereafter.

In addition to these permanent tax increases, in 1993 a surtax of 6.5 percent was imposed on all B&O tax classifications except selected business services, financial services, retailing, and public and nonprofit hospitals. The surtax was lowered to 4.5 percent on January 1, 1995. The surtax expires July 1, 1997.

In 1994, the Legislature enacted a B&O tax credit for high technology research and development. Firms engaged in biotechnology, advanced computing, electronic device technology, advanced material, and environmental technology pursuits are eligible for the credit if they invest at least 0.92 percent of their gross income in research and development. The amount of the credit is equal to 2.5 percent of their investment in research and development, except credits for eligible nonprofit organizations are equal to 0.515 percent of their investment in research and development. The credit is limited to \$2 million per year. When the credit was enacted, the B&O tax rate on firms providing selected businesses services was 2.5 percent, and the rate on nonprofit organizations engaging in research and development was 0.515 percent.

In 1996, the 1993 service rate increases were reduced by 50 percent. The rate on selected business services was decreased from 2.5 percent to 2 percent, the rate on financial businesses was decreased from 1.7 percent to 1.6 percent, and the rate on all other services was decreased from 2 percent to 1.75 percent. With the surtax, the rate on other services is 1.829 percent until the surtax expires on July 1, 1997.

**Summary:** B&O tax rates are reduced to their pre-1993 levels, effective July 1, 1997, as follows: the selected

business service rate is reduced from 2 percent to 1.5 percent; the financial business service rate is reduced from 1.6 percent to 1.5 percent; and the "other activities" rate is reduced from 1.75 percent to 1.5 percent. In addition, the selected business service classification and the financial business classification are consolidated into the "other activities" classification.

The rates provided in the high technology B&O tax credit are changed to reflect the new B&O tax rates provided in this bill.

**Votes on Final Passage:**

Senate	44	3	
House	91	7	
Senate	26	23	(Senate failed to override veto)

**VETO MESSAGE ON SB 7902**

March 6, 1997

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 7902 entitled:

"AN ACT Relating to lowering business and occupation tax rates;"

*This legislation would reduce the business and occupation (B&O) tax rates on services to the pre-1993 level of 1.5 percent. In addition, the B&O tax credit for research and development is made consistent with the B&O tax rates established in this bill. This legislation would reduce General Fund revenues by \$193.3 million for the 1997-99 biennium.*

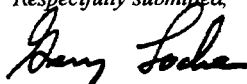
*I believe Washington's citizens deserve reasonable, fair and sustainable tax reform that does not jeopardize future investments in education and public safety, and that tax reform should also provide for the maintenance of a healthy economy for future generations. I would have preferred to roll back the B&O tax to pre-1993 levels beginning July 1, 1997. However, this bill, in combination with previously proposed property tax legislation, reduces the General Fund-State revenues by more than \$400 million in the 1997-99 biennium. The size of the total reduction is not compatible with my proposed budget for state spending, which balances revenues and expenses. Enactment of SB 7902 would require reductions in my proposed enhancements in education, further reductions in human services, or a lower ending fund balance, all of which I do not support.*

*I am committed to reducing the B&O tax to pre-1993 rates, and have introduced Senate Bill 6024 which would do so beginning July 1, 1998. My legislation would reduce revenues by \$94.3 million in the 1997-99 biennium, an integral part of my tax reduction and budget plan.*

*In light of the many other tax-cut proposals suggested by the Legislature and my own priority on education, SB 6024 is the most reasonable way to achieve the B&O tax rollback.*

*For these reasons I have vetoed Engrossed Senate Bill 7902, and urge you to support Senate Bill 6024.*

Respectfully submitted,



Gary Locke  
Governor

Petitioning for a plaque honoring veterans dying from war-related injuries received in the southeast Asia theater of operations.

By Senators Hargrove, McCaslin, Snyder, Patterson and Oke.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** In 1984, legislation was enacted authorizing the design and placement of a memorial on the capitol campus honoring Washington State residents who died or are "missing in action" in the southeast Asia theater of operations. This memorial, commonly known as the Vietnam Memorial, was dedicated in May 1987.

Joel Dean Smith, who sustained massive war-related injuries, is representative of many thousands of Washington State residents who have died or will die from war-related injuries received in the southeast Asia theater of operations.

**Summary:** The memorialists respectfully pray that the Governor of the state of Washington, in consultation with the Director of the Department of Veterans Affairs, the Director of the Department of General Administration, and the state's Vietnam veterans organizations, have placed upon the southeast Asia memorial a plaque honoring those veterans who died from war-related injuries received in the southeast Asia theater of operations.

**Votes on Final Passage:**

Senate	48	0
House	97	0

Petitioning for use of the Fast Flux Test Facility to meet critical national needs.

By Senators Hale, Loveland, Rasmussen, Bauer, Haugen, Oke, Horn, Morton and Deccio.

**Background:** The Fast Flux Test Facility (FFTF) is a multi-purpose, late-generation nuclear reactor located on the Hanford Nuclear Reservation. It has the potential to produce medical isotopes used in cancer treatments. It also has the potential to produce tritium during an interim period until the federal government constructs a new tritium-producing reactor. Tritium is a key component in nuclear weapons and has a relatively short half-life that requires an ongoing production source. Delaying the construction of a new reactor for tritium production by using the FFTF may allow funds to be used for environmental restoration clean-up activities at the Hanford Nuclear Reservation.

**Summary:** President Clinton, all members of Congress, and the Secretary of the United States Department of En-

ergy are urged to ensure that Congress and executive agencies approve and endorse the full and fair evaluation of the Fast Flux Test Facility for use in meeting critical national needs, and are urged to ensure that the long-term best interests of clean-up activities at Hanford and cancer research be given top priority by the United States Department of Energy in arriving at its decision.

**Votes on Final Passage:**

Senate	38	7
House	Adopted	

### SJM 8008

Preserving the U.S.S. Missouri.

By Senators Oke, Winsley, Benton, Roach, Horn, Swanson, Sheldon and Kohl.

**Background:** The unconditional surrender of Japan was signed on the deck of the Battleship U.S.S. Missouri ending World War II.

The Battleship U.S.S. Missouri was moored in Bremerton, Washington, for years.

**Summary:** The House of Representatives and Senate of the state of Washington pray that Congress enact legislation retaining the Battleship U.S.S. Missouri at a selected site on the mainland.

**Votes on Final Passage:**

Senate	48	0
House	97	0

### SJM 8009

Promoting the use of the Eddie Eagle Gun Safety Program in our schools.

By Senators Rasmussen, Roach, Hochstatter, Hargrove, Stevens, Wood, Long, Loveland, Winsley and Kohl.

Senate Committee on Education  
House Committee on Education

**Background:** The National Rifle Association, in cooperation with education professionals and others, has developed the Eddie Eagle Gun Safety Program. The program is designed for children in pre-kindergarten through sixth grade. It teaches the fundamentals of firearms safety to children and emphasizes correct safety procedures through workbooks, games, a video, class discussion, and role-playing scenarios. Eddie Eagle is the program's feathered mascot.

**Summary:** A memorial is sent to the Superintendent of Public Instruction, and each public school district in the state. The memorial encourages school districts to promote the use of the National Rifle Association's Eddie Eagle Gun Safety Program to help prevent firearms accidents among children.

**Votes on Final Passage:**

Senate	49	0
House	97	0

### SCR 8410

Proclaiming the year commencing July 1997, as Klondike Gold Rush Centennial Year.

By Senators Horn, Rossi, Johnson, McDonald, Winsley, Rasmussen and Swecker.

House Committee on Government Administration

**Background:** When the *S.S. Portland* docked in Seattle on the morning of July 17, 1897, transporting more than one ton of gold from the Klondike, it ushered a flurry of economic activity in the Puget Sound area as tens of thousands of gold hungry miners flooded through Seattle and Tacoma on their way to the fabled gold fields of the Klondike.

The primary route to the Yukon was by steamer from Puget Sound to Skagway or Dyea, Alaska, and then by land to the fabled gold fields.

The flurry of economic activity in outfitting and transporting gold hungry miners to the Yukon transformed Seattle from a sleepy frontier town on Puget Sound to the robust gateway to the Klondike and ended the great 1890s depression. This transforming event was celebrated by the Alaska-Yukon-Pacific Exhibition in 1909 on the newly opened campus of the University of Washington at its present site north of Portage Bay.

On July 19, 1997, the Spirit of '98 will reenact the arrival of the *S.S. Portland* 100 years and two days after the original landing. Planning for this event began two years ago by the board of directors of the Klondike Centennial Committee of Washington, the Klondike Centennial Committee of Alaska, the Washington State Office of the Secretary of State, the Seattle Chamber of Commerce, and private businesses.

**Summary:** The Senate and House of Representatives of the state of Washington resolve that "The Rush is On" and proclaim the "Klondike Gold Rush Centennial Year" to commence in July of 1997.

**Votes on Final Passage:**

Senate	Adopted	
House	97	0

### SCR 8415

Examining motor vehicle excise tax distribution.

By Senators West and Roach.

**Background:** The state imposes an excise tax for the privilege of using a motor vehicle in this state. The tax is levied annually on the value of the vehicle. These values

## SCR 8417

are reduced each year according to a statutory schedule. The rate of tax for motor vehicles and log trucks is 2.2 percent. The rate of tax for truck-type power units used in combination with trailers for loads over 40,000 pounds is 2.78 percent (unless to haul logs). The trailer is exempt.

The revenues generated by the motor vehicle excise tax are deposited into various accounts and are used for both state and local general governmental and transportation-related purposes.

**Summary:** Staff of the fiscal committees of the Legislature are directed to examine the imposition and distribution of the motor vehicle excise tax, with the goal of using motor vehicle excise tax revenue for transportation purposes. The examination must include a review of: (1) the historical distribution of the tax revenues; (2) the current distribution of the revenues; (3) current and historical purposes of the tax; (4) the adequacy of state transportation funding from the motor vehicle excise tax and the revenue needs of other state and local programs; and (5) the rate of the motor vehicle excise tax compared to other states in the context of the total tax burden on motor vehicle owners. The examination must be completed by December 31, 1997, and a report submitted to the fiscal committees of the Legislature.

**Votes on Final Passage:**

Senate	25	24
House	Adopted	

fight to preserve the James Madison Memorial Building as an addition to the Library of Congress to preserve our nation's collection of rare and valuable books, manuscripts, and presidential papers.

**Summary:** The Senate of the state of Washington resolves, the House of Representatives concurring, that the Director of the Department of General Administration is directed to rename the Washington State Library Building as the Joel Pritchard State Library.

**Votes on Final Passage:**

Senate	Adopted
House	Adopted

## SCR 8417

Renaming the Washington State Library Building as the "Joel Pritchard State Library."

By Senators McDonald, Loveland, Anderson, Bauer, Benton, Brown, Deccio, Fairley, Finkbeiner, Franklin, Fraser, Goings, Hale, Hargrove, Haugen, Heavey, Hochstatter, Horn, Jacobsen, Johnson, Kline, Kohl, Long, McAuliffe, McCaslin, Morton, Newhouse, Oke, Patterson, Prentice, Prince, Rasmussen, Roach, Rossi, Schow, Sellar, Sheldon, Snyder, Spanel, Stevens, Strannigan, Swanson, Swecker, Thibaudeau, West, Winsley, Wojahn, Wood and Zarelli.

**Background:** The Honorable Joel Pritchard was elected Washington's 14th Lieutenant Governor in 1988. His 32 years of public service included four terms in the state House of Representatives, one term in the state Senate, and six terms in the United States House of Representatives.

Joel Pritchard recognized the importance of reading and the joys of teaching others to read, and made the cause of literacy the hallmark of his term as Lieutenant Governor. He personally volunteered as a reading tutor at Seattle's Beacon Hill Elementary School, and was an energetic leader in the Washington Reads Program created to promote literacy. As a member of Congress, he led the

## Sunset Legislation

**Background:** The Washington State Sunset Act (Chapter 43.131 RCW) was adopted in 1977 as a means to improve legislative oversight of state agencies and programs. The sunset process provides an automatic termination of selected state agencies, programs and statutes. One year prior to termination, program and fiscal reviews are conducted by the Joint Legislative Audit and Review Committee and the Office of Financial Management. The program reviews are intended to assist the Legislature in determining whether agencies and programs should be allowed to terminate automatically or be reauthorized by legislative action in either their current or modified form prior to the termination date.

**Session Summary:** Legislation was enacted which extended the sunset review date for the Rural Natural Resource Impact Area Assistance Programs from June 30, 1998 to June 30, 2000 (2SHB 1201). Legislation was enacted which added the Diabetes Cost Reduction Act to the sunset process. The sunset review date for this act is June 30, 2001 (2SSB 5178).

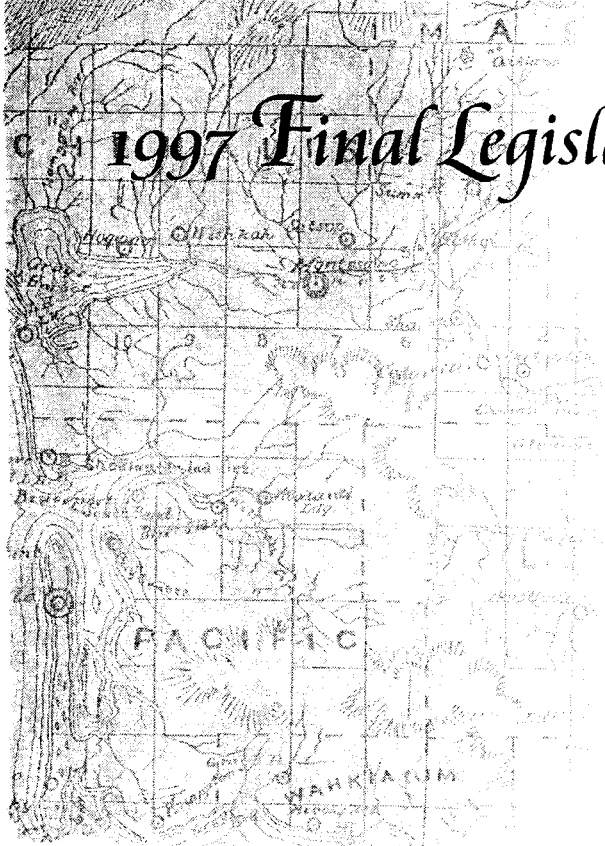
### New Program Placed on Sunset Schedule

**Diabetes Cost Reduction Act** 2SSB 5178 (C 276 L 97)

### Program With Sunset Date Extended

**Rural Natural Resource Impact  
Area Assistance Programs** 2SHB 1201 (C 367 L 97)  
Extended to June 30, 2000

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# 1997 Final Legislative Report

## SECTION II Budget Information

*Operating Budget*

*Capital Budget*

*Transportation Budget*

*Teachers were generally employed for three or four months during the winter; usually there was no summer term. Frequently, the teachers could do little more than provide instruction in reading, spelling, writing and arithmetic. The routine of study was adapted to whatever textbooks were available.*

**Above:** Photo of a Jefferson County teacher in classroom.

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## **1997-99 Operating Budget Overview**

Fiscal actions in the 1997 legislative session were shaped by sharply increasing revenues and the limited expenditure growth allowed by Initiative 601.

In March 1997, the Economic and Revenue Forecast Council projected \$19.4 billion in general fund-state revenues for the 1997-99 biennium. When combined with the \$414.0 million fund balance, the general fund had projected resources of \$19.9 billion.

Under Initiative 601, spending from the state general fund for the 1997-99 biennium was limited to \$19.2 billion.<sup>1</sup> The 1997-99 biennial omnibus operating budget enacted by Chapter 149 and 454, Laws of 1997 (SSB 6062 and ESHB 2259) appropriated \$19.1 billion from the state general fund. In addition, other bills appropriated \$8 million resulting in a total appropriation level of \$151 million below the spending limit.<sup>2</sup>

The total funds appropriated for 1997-99 is \$33.8 billion. When funds from the transportation budget are included, the total 1997-99 operating budget is \$35.4 billion.

The total funds operating budget represents an increase of 9.8 percent over estimated 1995-97 biennial expenditures for all funds. The state general fund portion of the operating budget represents a 7.7 percent increase over estimated 1995-97 biennial general fund-state expenditures.

Most of the increase in the general fund appropriation was provided for education. Funding for the new K-12 enrollments and other costs associated with the public school system, approximately \$512.5 million, comprise 37.5 percent of the state general fund budget increase from 1995-97. Higher education received an additional \$232.8 million or 17 percent of the general fund-state increase. Other significant general fund-state increases were in the Department of Social and Health Services (\$399.4 million, 29.2 percent of the general fund-state increase). A 3 percent (\$347.5 million of the general fund) was provided to fund a cost of living increase for state and higher education employees as well as selected contracted vendors.

With available resources significantly greater than allowable spending, the Legislature and Governor chose to reduce revenues. After the Governor's vetoes, there was a total of \$371 million of revenue reductions and \$11.5 million in increased budget driven revenue, leaving \$19.5 billion in resources. The total appropriation level for 1997-99 is just under \$19.1 billion, leaving almost \$416 million in reserve.

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<sup>1</sup> The biennial spending limit is the combination of annual limits for fiscal years 1998 and 1999 of \$9.38 billion and \$9.85 billion, respectively.

<sup>2</sup> The biennial appropriation is the combination of \$9.38 billion for fiscal year 1998 and \$9.70 billion for fiscal year 1999.

## **Revenues**

In March 1997, the official Economic and Revenue Forecast Council projected \$19,446 million in general fund-state revenues for the 1997-99 biennium. When combined with the \$414 million fund balance, the general fund had projected resources of \$19,860 million.

The 1997 Legislature passed a total of \$371 million in tax reductions primarily in three bills — two major property tax reductions, SB 5835 (Chapter 3, Laws of 1997, which will be on the November 1997 ballot as Referendum 47) and EHB 1417 (Chapter 2, Laws of 1997) and a rollback of the Business and Occupation (B&O) tax on services in EHB 1821. These three bills total \$315 million in revenue reductions. All other tax and revenue bills net to a total of \$56 million in reductions.

Among the most significant of the other revenue bills is a reduction for businesses in rural distressed areas, a decrease in the beer tax, tax incentives for warehouse businesses, an exemption for intangible personal property and the reinstatement of the insurance premiums tax credit for guaranty association assessments.

Budget driven revenues totaling \$11.5 million include \$7.1 million for new lottery games as well as changes to the liquor tax distributions and the State Treasurer's service account.

**1997-99 Estimated Revenues and Expenditures**

**General Fund-State**

(Dollars in Millions)

<b>RESOURCES</b>
------------------

Unrestricted Beginning Balance	414.3
March Revenue Forecast	19,446.0
Property Tax (SB 5835,** EHB 1417)	-221.0
B&O Tax Rollback (HB 1821)	-94.3
Other Revenue and Tax Bills	<u>-56.1</u>
Total Reductions	-371.4
Budget Driven Revenue/Other	14.4
<b>Total Resources</b>	<b>19,503.3</b>

<b>EXPENDITURES</b>
---------------------

1997-99 Appropriation Acts*	19,076.9
Other Appropriations	<u>7.7</u>
<b>Total Expenditures</b>	<b>19,084.6</b>
I-601 Spending Limit	19,235.4
Capacity Under Limit	150.8

<b>BALANCE</b>
----------------

Unrestricted Ending Balance	418.7
Emergency Reserve Fund	<u>0.0</u>
<b>Estimated Ending Balance</b>	<b>418.7</b>

\* Several of the Governor's vetoes raise legal questions as to whether particular appropriations remain in law. A successful legal challenge could decrease the appropriation level.

\*\* This bill has been put to the voters as Referendum 47 for their action at the November 1997 general election.

# 1997-99 State Operating Budget (SSB 6062/ESHB 2259)

## 1997-99 Revenue Legislation General Fund - State (Dollars in Thousands)

### REVENUE LEGISLATION

SB	5835	Property Tax Limitation	-194,569
EHB	1417	Property Tax Reduction	-26,430
		<b>Sub-Total Property Tax</b>	<b>-220,999</b>
EHB	1821	B&O Tax Rate Categories	-94,320
		<b>Sub-Total B&amp;O Tax</b>	<b>-94,320</b>
2SSB	5740	Rural Distressed Areas	-12,001
SSB	5845	Beer Tax	-9,537
E2SSB	5074	Warehouse/Grain Tax Incentives	-6,851
ESHB	2192	Stadium/Technology Financing	-6,782
E3SHB	3900	Juvenile Code Revisions	-6,303
SHB	1257	Electric Facility/Tax Exemption	-5,001
SSB	5334	Insurance Premiums Tax Credit	-4,777
HB	1420	Local Public Health Financing	-1,686
HB	1261	Small Business B&O Credit	-836
HB	1959	B&O Wholesale Car Auctions	-825
SHB	1592	Small Water Districts/Tax Exemption	-776
ESSB	5286	Intangible Personal Property	-589
HB	1267	Vessel Manufacturer and Dealers Tax Exemption	-531
SSB	5175	Hay, Alfalfa, and Seed B&O Tax	-404
SSB	5359	Aircraft Parts Design Exemption	-386
SB	5402	Nonprofit Camps Tax Exemptions	-297
SB	5193	Farmworker Housing Tax Exemption	-288
SHB	1813	Movie and Video Production Exemption	-208
SB	5195	Discount Program Membership	-198
E2SSB	5710	Juvenile Care and Treatment	-192
SHB	1342	Department of Revenue Interest and Penalties	-162
SB	5353	Vehicle Tax Exemption	-150
SSB	5230	Current Use Taxation	-51
SSB	5173	Liquor License Schematic	-43
SSB	5868	Aluminum Master Alloys Tax	-38
SHB	1358	Farm Wildlife Habitat Tax	-27
SSB	5121	Estate Tax Returns	-16
SHB	1770	Dungeness Crab/Coastal Fishery Fees	-15
2SSB	5127	Trauma Care Services	29
SSB	5664	Liquor Credit Card Purchases	126
SB	5997	Cosmetology, Barbering, etc. Inspections	253
ESHB	2272	Cigarette/Tobacco Tax Enforcement	2,461
		<b>Sub-Total All Other Revenue Legislation</b>	<b>-56,100</b>
<b>Total All Revenue Legislation</b>			<b>-371,419</b>

### BUDGET DRIVEN REVENUE

New On-Line Lottery Games	7,100
Excess Liquor Tax Distribution	3,740
Treasurer's Service Account	3,600
<b>Total Budget Driven Revenue</b>	<b>14,440</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**1997-99 Washington State Operating Budget**

**Appropriations Contained Within Other Legislation**

(Dollars in Thousands)

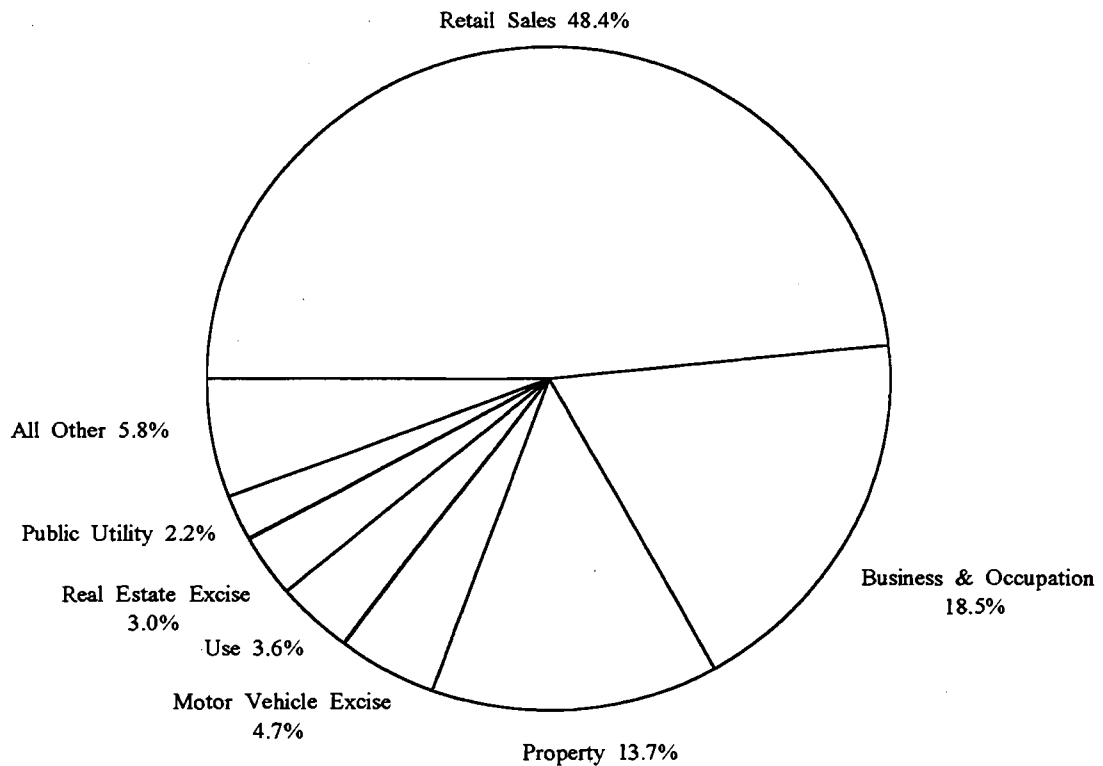
<b>Bill Number and Subject</b>	<b>Session Law</b>	<b>Agency</b>	<b>GF-S</b>	<b>Other</b>	<b>Total</b>
SSB 5327 - Habitat Incentives Program	C 425 L 97	Department of Fish & Wildlife	24	0	24
SSB 5327 - Habitat Incentives Program	C 425 L 97	Department of Natural Resources	24	0	24
<b>Total Other 1997-99 Operating Legislation</b>			<b>48</b>	<b>0</b>	<b>48</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

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**Washington State  
Washington State Revenue Forecast -- March 1997  
1997-99 General Fund - State Revenues by Source  
(Dollars in Millions)**

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Sources of Revenue	
Retail Sales	9,418.1
Business & Occupation	3,603.8
Property	2,656.0
Motor Vehicle Excise	923.4
Use	702.1
Real Estate Excise	578.1
Public Utility	435.4
All Other	1,129.1
<b>Total *</b>	<b>19,446.0</b>

# 1997-99 State Operating Budget (SSB 6062/ESHB 2259)

## Washington State General Fund - State Revenues By Source Dollars in Millions

	March 1997 Forecast*					
	<u>1987-89</u>	<u>1989-91</u>	<u>1991-93</u>	<u>1993-95</u>	<u>1995-97</u>	<u>1997-99</u>
Retail Sales	5,152.8	6,446.3	7,163.0	8,020.5	8,524.7	9,418.1
Business & Occupation	1,894.3	2,217.7	2,503.5	3,031.5	3,278.5	3,603.8
Property	1,233.7	1,399.4	1,661.8	1,960.4	2,244.2	2,656.0
Motor Vehicle Excise	586.2	665.9	687.9	793.5	799.3	923.4
Use	372.6	481.9	515.1	569.4	617.0	702.1
Real Estate Excise	280.9	436.8	399.0	493.0	523.8	578.1
Public Utility	244.9	244.0	292.9	345.2	392.1	435.4
All Other	<u>1,029.7</u>	<u>1,080.1</u>	<u>1,441.6</u>	<u>1,351.1</u>	<u>1,205.3</u>	<u>1,129.1</u>
<b>Total</b>	<b>10,795.1</b>	<b>12,972.1</b>	<b>14,664.8</b>	<b>16,564.6</b>	<b>17,584.9</b>	<b>19,446.0</b>

	Percent Of Total					
Retail Sales	47.7%	49.7%	48.8%	48.4%	48.5%	48.4%
Business & Occupation	17.5%	17.1%	17.1%	18.3%	18.6%	18.5%
Property	11.4%	10.8%	11.3%	11.8%	12.8%	13.7%
Motor Vehicle Excise	5.4%	5.1%	4.7%	4.8%	4.5%	4.7%
Use	3.5%	3.7%	3.5%	3.4%	3.5%	3.6%
Real Estate Excise	2.6%	3.4%	2.7%	3.0%	3.0%	3.0%
Public Utility	2.3%	1.9%	2.0%	2.1%	2.2%	2.2%
All Other	<u>9.5%</u>	<u>8.3%</u>	<u>9.8%</u>	<u>8.2%</u>	<u>6.9%</u>	<u>5.8%</u>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

	Percent Change From Prior Biennium					
Retail Sales	14.7%	25.1%	11.1%	12.0%	6.3%	10.5%
Business & Occupation	27.8%	17.1%	12.9%	21.1%	8.1%	9.9%
Property	11.2%	13.4%	18.8%	18.0%	14.5%	18.3%
Motor Vehicle Excise	17.9%	13.6%	3.3%	15.4%	0.7%	15.5%
Use	4.1%	29.3%	6.9%	10.5%	8.4%	13.8%
Real Estate Excise	27.1%	55.5%	-8.7%	23.6%	6.2%	10.4%
Public Utility	-8.1%	-0.4%	20.0%	17.9%	13.6%	11.0%
All Other	<u>2.3%</u>	<u>4.9%</u>	<u>33.5%</u>	<u>-6.3%</u>	<u>-10.8%</u>	<u>-6.3%</u>
<b>Total</b>	<b>14.5%</b>	<b>20.2%</b>	<b>13.0%</b>	<b>13.0%</b>	<b>6.2%</b>	<b>10.6%</b>

\* Updated for the 1997 Legislative Session

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**TOTAL STATE**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
Legislative	105,076	112,884	7,808	112,569	124,369	11,800
Judicial	55,611	59,988	4,377	111,134	119,614	8,480
Governmental Operations	376,730	337,914	-38,816	2,092,545	2,327,610	235,065
Dept of Social & Health Services	4,534,839	4,934,256	399,417	9,863,581	10,933,504	1,069,923
Other Human Services	881,383	1,012,051	130,668	2,418,631	2,813,315	394,684
Natural Resources	220,789	231,214	10,425	855,861	900,905	45,044
Transportation	29,067	24,507	-4,560	1,309,913	1,360,844	50,931
Total Education	10,372,308	11,120,073	747,765	13,926,024	15,036,777	1,110,753
Public Schools	8,355,514	8,868,051	512,537	9,077,578	9,653,127	575,549
Higher Education	1,970,007	2,202,787	232,780	4,758,918	5,292,358	533,440
Other Education	46,787	49,235	2,448	89,528	91,292	1,764
Special Appropriations	<u>1,135,524</u>	<u>1,243,996</u>	<u>108,472</u>	<u>1,538,260</u>	<u>1,761,885</u>	<u>223,625</u>
<b>Statewide Total</b>	<b>17,711,327</b>	<b>19,076,883</b>	<b>1,365,556</b>	<b>32,228,518</b>	<b>35,378,823</b>	<b>3,150,305</b>

*Note: Amounts shown contain all legislative operating appropriations: Chapter 149, Laws of 1997, Partial Veto -- SSB 6062 Omnibus Operating Budget (Part 1); Chapter 454, Laws of 1997, Partial Veto -- ESHB 2259 Omnibus Operating Budget (Part 2); Chapter 457, Laws of 1997 -- SSB 6061 Transportation Budget; and appropriations contained within other legislation (See Page 9 for further information).*



# 1997-99 State Operating Budget (SSB 6062/ESHB 2259)

## Washington State Operating Budget 1995-97 Expenditure Authority vs. 1997-99 Budget

### LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
House of Representatives	47,547	49,853	2,306	47,562	49,853	2,291
Senate	36,695	39,995	3,300	36,710	39,995	3,285
Jt Leg Audit & Review Committee	2,928	2,796	-132	2,928	4,296	1,368
Legislative Transportation Comm	0	0	0	2,778	3,022	244
WA Performance Partnership Council	250	0	-250	250	0	-250
LEAP Committee	2,324	2,595	271	2,734	3,015	281
Office of the State Actuary	0	0	0	1,573	1,681	108
Joint Legislative Systems Comm	8,900	10,860	1,960	8,940	12,840	3,900
Statute Law Committee	6,432	6,785	353	9,094	9,667	573
<b>Total Legislative</b>	<b>105,076</b>	<b>112,884</b>	<b>7,808</b>	<b>112,569</b>	<b>124,369</b>	<b>11,800</b>
Supreme Court	8,955	9,453	498	8,955	9,453	498
State Law Library	3,215	3,554	339	3,215	3,554	339
Court of Appeals	18,550	20,358	1,808	18,550	20,358	1,808
Commission on Judicial Conduct	1,401	1,305	-96	1,401	1,305	-96
Office of Administrator for Courts	23,490	25,318	1,828	73,208	72,757	-451
Office of Public Defense	0	0	0	5,805	12,187	6,382
<b>Total Judicial</b>	<b>55,611</b>	<b>59,988</b>	<b>4,377</b>	<b>111,134</b>	<b>119,614</b>	<b>8,480</b>
<b>Total Legislative and Judicial</b>	<b>160,687</b>	<b>172,872</b>	<b>12,185</b>	<b>223,703</b>	<b>243,983</b>	<b>20,280</b>

# 1997-99 State Operating Budget (SSB 6062/ESHB 2259)

## Washington State Operating Budget 1995-97 Expenditure Authority vs. 1997-99 Budget GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
Office of the Governor	8,655	10,010	1,355	8,880	10,898	2,018
Office of the Lieutenant Governor	518	565	47	518	565	47
Public Disclosure Commission	2,308	2,663	355	2,309	2,663	354
Office of the Secretary of State	17,039	13,956	-3,083	23,679	23,712	33
Governor's Office of Indian Affairs	337	463	126	337	463	126
Asian/Pacific-American Affrs	361	401	40	361	401	40
Office of the State Treasurer	0	0	0	10,698	11,567	869
Office of the State Auditor	508	1,356	848	36,845	39,416	2,571
Comm Salaries for Elected Officials	65	67	2	65	67	2
Office of the Attorney General	6,503	7,992	1,489	131,355	139,641	8,286
Dept of Financial Institutions	0	0	0	13,764	15,669	1,905
Dept Community, Trade, Econ Dev	104,605	113,712	9,107	297,612	310,504	12,892
Economic & Revenue Forecast Council	983	905	-78	983	905	-78
Office of Financial Management	18,870	20,783	1,913	43,651	57,126	13,475
Office of Administrative Hearings	0	0	0	14,532	19,665	5,133
Department of Personnel	720	0	-720	29,820	28,779	-1,041
Deferred Compensation Committee	0	0	0	1,614	0	-1,614
State Lottery Commission	0	0	0	465,718	688,558	222,840
Washington State Gambling Comm	1,000	0	-1,000	19,914	18,633	-1,281
WA State Comm on Hispanic Affairs	405	407	2	405	407	2
African-American Affairs Comm	301	338	37	301	338	37
Personnel Appeals Board	0	0	0	1,593	1,539	-54
Department of Retirement Systems	0	0	0	32,541	34,732	2,191
State Investment Board	0	0	0	8,480	10,303	1,823
Department of Revenue	125,712	130,353	4,641	133,831	138,459	4,628
Board of Tax Appeals	1,989	1,774	-215	1,989	1,774	-215
Municipal Research Council	3,230	3,394	164	3,230	4,019	789
Minority & Women's Business Enterp	0	0	0	2,121	2,357	236
Dept of General Administration	3,067	2,580	-487	97,737	116,146	18,409
Department of Information Services	39,178	0	-39,178	277,910	226,333	-51,577
Office of Insurance Commissioner	0	0	0	20,335	22,387	2,052
State Board of Accountancy	0	0	0	1,293	978	-315
Forensic Investigation Council	0	0	0	12	12	0
Washington Horse Racing Commission	0	0	0	4,733	4,828	95
WA State Liquor Control Board	0	2,845	2,845	114,186	134,155	19,969
Utilities and Transportation Comm	0	0	0	26,224	24,827	-1,397
Board for Volunteer Firefighters	0	0	0	442	529	87
Military Department	34,397	16,305	-18,092	230,942	200,035	-30,907
Public Employment Relations Comm	3,314	3,532	218	3,314	3,532	218
Growth Management Hearings Board	2,665	2,634	-31	2,665	2,634	-31
State Convention and Trade Center	0	0	0	25,606	27,175	1,569
Caseload Forecast Council	0	879	879	0	879	879
<b>Total Governmental Operations</b>	<b>376,730</b>	<b>337,914</b>	<b>-38,816</b>	<b>2,092,545</b>	<b>2,327,610</b>	<b>235,065</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**HUMAN SERVICES**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
<b>Dept of Social &amp; Health Services</b>	<b>4,534,839</b>	<b>4,934,256</b>	<b>399,417</b>	<b>9,863,581</b>	<b>10,933,504</b>	<b>1,069,923</b>
WA State Health Care Authority	6,806	12,633	5,827	321,085	557,439	236,354
Human Rights Commission	3,917	4,055	138	5,663	5,758	95
Bd of Industrial Insurance Appeals	0	0	0	19,633	21,592	1,959
Criminal Justice Training Comm	0	0	0	11,954	13,918	1,964
Department of Labor and Industries	10,981	13,653	2,672	366,971	380,581	13,610
Indeterminate Sentence Review Board	2,285	2,061	-224	2,285	2,061	-224
WA Health Care Policy Board	0	0	0	4,023	0	-4,023
Department of Health	90,240	128,737	38,497	448,470	504,161	55,691
Department of Veterans' Affairs	18,506	19,121	615	50,663	53,455	2,792
Department of Corrections	738,684	825,064	86,380	744,716	848,518	103,802
Dept of Services for the Blind	2,589	2,779	190	14,178	15,107	929
Sentencing Guidelines Commission	1,262	1,427	165	1,262	1,427	165
Department of Employment Security	<u>6,113</u>	<u>2,521</u>	<u>-3,592</u>	<u>427,728</u>	<u>409,298</u>	<u>-18,430</u>
<b>Total Other Human Services</b>	<b>881,383</b>	<b>1,012,051</b>	<b>130,668</b>	<b>2,418,631</b>	<b>2,813,315</b>	<b>394,684</b>
<b>Total Human Services</b>	<b>5,416,222</b>	<b>5,946,307</b>	<b>530,085</b>	<b>12,282,212</b>	<b>13,746,819</b>	<b>1,464,607</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**DEPT OF SOCIAL & HEALTH SERVICES**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
Children and Family Services	326,696	405,298	78,602	607,246	662,197	54,951
Juvenile Rehabilitation	131,051	157,629	26,578	176,590	201,973	25,383
Mental Health	445,655	474,344	28,689	898,123	939,345	41,222
Developmental Disabilities	381,809	415,063	33,254	717,992	777,464	59,472
Long-Term Care Services	756,075	808,349	52,274	1,521,062	1,692,605	171,543
Economic Services	985,238	1,073,135	87,897	1,800,958	2,025,753	224,795
Alcohol & Substance Abuse	21,240	28,800	7,560	170,957	182,827	11,870
Medical Assistance Payments	1,337,888	1,368,918	31,030	3,514,406	3,888,523	374,117
Vocational Rehabilitation	15,594	17,244	1,650	91,704	99,690	7,986
Administration/Support Svcs	52,047	48,528	-3,519	93,947	89,150	-4,797
Child Support Services	38,316	41,999	3,683	211,085	220,945	9,860
Payments to Other Agencies	43,230	94,949	51,719	59,511	153,032	93,521
<b>Total DSHS</b>	<b>4,534,839</b>	<b>4,934,256</b>	<b>399,417</b>	<b>9,863,581</b>	<b>10,933,504</b>	<b>1,069,923</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**NATURAL RESOURCES**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
Washington State Energy Office	508	0	-508	18,543	0	-18,543
Columbia River Gorge Commission	577	435	-142	1,101	870	-231
Department of Ecology	44,070	51,873	7,803	241,261	248,209	6,948
WA Pollution Liab Insurance Program	0	0	0	1,342	2,054	712
State Parks and Recreation Comm	39,747	40,861	1,114	67,703	73,503	5,800
Interagency Comm for Outdoor Rec	0	0	0	3,219	2,988	-231
Environmental Hearings Office	1,453	1,553	100	1,453	1,553	100
State Conservation Commission	1,692	1,678	-14	2,013	2,118	105
Office of Marine Safety	0	0	0	1,328	0	-1,328
Dept of Fish and Wildlife	69,206	72,251	3,045	211,667	250,832	39,165
Department of Natural Resources	49,064	47,959	-1,105	233,243	240,136	6,893
Department of Agriculture	14,472	14,604	132	72,988	78,642	5,654
<b>Total Natural Resources</b>	<b>220,789</b>	<b>231,214</b>	<b>10,425</b>	<b>855,861</b>	<b>900,905</b>	<b>45,044</b>

## 1997-99 State Operating Budget (SSB 6062/ESHB 2259)

### Washington State Operating Budget 1995-97 Expenditure Authority vs. 1997-99 Budget

#### TRANSPORTATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
Board of Pilotage Commissioners	0	0	0	260	275	15
Washington State Patrol	20,332	15,562	-4,770	253,230	277,085	23,855
WA Traffic Safety Commission	0	0	0	6,688	6,657	-31
Department of Licensing	8,735	8,945	210	191,424	172,495	-18,929
Department of Transportation	0	0	0	857,202	903,174	45,972
Marine Employees' Commission	0	0	0	345	354	9
Transportation Commission	0	0	0	764	804	40
<b>Total Transportation</b>	<b>29,067</b>	<b>24,507</b>	<b>-4,560</b>	<b>1,309,913</b>	<b>1,360,844</b>	<b>50,931</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**EDUCATION**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
<b>Public Schools</b>	<b>8,355,514</b>	<b>8,868,051</b>	<b>512,537</b>	<b>9,077,578</b>	<b>9,653,127</b>	<b>575,549</b>
Higher Education Coordinating Board	151,912	190,927	39,015	158,834	203,581	44,747
University of Washington	527,705	573,730	46,025	2,225,611	2,455,663	230,052
Washington State University	310,158	339,463	29,305	669,358	737,578	68,220
Eastern Washington University	75,518	78,700	3,182	141,918	143,193	1,275
Central Washington University	69,982	75,830	5,848	123,887	140,259	16,372
The Evergreen State College	37,821	40,669	2,848	65,927	72,299	6,372
Joint Center for Higher Education	2,438	2,939	501	9,563	12,206	2,643
Western Washington University	88,360	96,677	8,317	163,899	190,224	26,325
Community/Technical College System	706,113	803,852	97,739	1,199,921	1,337,355	137,434
<b>Total Higher Education</b>	<b>1,970,007</b>	<b>2,202,787</b>	<b>232,780</b>	<b>4,758,918</b>	<b>5,292,358</b>	<b>533,440</b>
State School for the Blind	7,010	7,452	442	7,017	7,644	627
State School for the Deaf	12,547	12,917	370	12,562	12,917	355
Work Force Trng & Educ Coord Board	3,268	3,278	10	38,405	38,152	-253
State Library	14,351	14,764	413	19,203	19,611	408
Washington State Arts Commission	4,233	4,028	-205	5,175	4,718	-457
Washington State Historical Society	4,187	5,033	846	5,975	6,487	512
East Wash State Historical Society	1,191	1,763	572	1,191	1,763	572
<b>Total Other Education</b>	<b>46,787</b>	<b>49,235</b>	<b>2,448</b>	<b>89,528</b>	<b>91,292</b>	<b>1,764</b>
<b>Total Education</b>	<b>10,372,308</b>	<b>11,120,073</b>	<b>747,765</b>	<b>13,926,024</b>	<b>15,036,777</b>	<b>1,110,753</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**PUBLIC SCHOOLS**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997-99	Difference	1995-97	1997-99	Difference
OSPI & Statewide Programs	58,435	60,833	2,398	106,677	157,195	50,518
General Apportionment	6,419,791	6,940,884	521,093	6,419,791	6,940,884	521,093
Pupil Transportation	327,024	353,904	26,880	327,024	353,904	26,880
School Food Services	6,000	6,150	150	269,619	265,190	-4,429
Special Education	734,882	744,813	9,931	833,566	879,919	46,353
Traffic Safety Education	0	0	0	16,824	17,179	355
Educational Service Districts	8,901	9,021	120	8,901	9,021	120
Levy Equalization	159,702	173,952	14,250	159,702	173,952	14,250
Elementary/Secondary School Improv	0	0	0	222,376	255,987	33,611
Indian Education	0	0	0	55	0	-55
Institutional Education	32,033	37,009	4,976	40,581	45,557	4,976
Ed of Highly Capable Students	8,417	11,928	3,511	8,417	11,928	3,511
Education Reform	35,966	40,773	4,807	48,466	41,006	-7,460
Federal Encumbrances	0	0	0	51,216	0	-51,216
Transitional Bilingual Instruction	54,599	64,560	9,961	54,599	64,560	9,961
Learning Assistance Program (LAP)	113,868	121,171	7,303	113,868	121,171	7,303
Block Grants	114,922	106,777	-8,145	114,922	106,777	-8,145
Compensation Adjustments	218,595	196,276	-22,319	218,595	196,276	-22,319
Common School Construction	62,379	0	-62,379	62,379	12,621	-49,758
<b>Total Public Schools</b>	<b>8,355,514</b>	<b>8,868,051</b>	<b>512,537</b>	<b>9,077,578</b>	<b>9,653,127</b>	<b>575,549</b>



**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority vs. 1997-99 Budget**

**SPECIAL APPROPRIATIONS**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	<u>1995-97</u>	<u>1997-99</u>	<u>Difference</u>	<u>1995-97</u>	<u>1997-99</u>	<u>Difference</u>
Bond Retirement and Interest	843,666	982,009	138,343	1,139,770	1,386,543	246,773
Special Approps to the Governor	12,601	15,424	2,823	18,357	45,119	26,762
Sundry Claims	445	0	-445	463	0	-463
State Employee Compensation Adjust	88,262	86,963	-1,299	189,120	170,623	-18,497
Agency Loans	950	0	-950	950	0	-950
Contributions to Retirement Systems	<u>189,600</u>	<u>159,600</u>	<u>-30,000</u>	<u>189,600</u>	<u>159,600</u>	<u>-30,000</u>
<b>Total Special Appropriations</b>	<b>1,135,524</b>	<b>1,243,996</b>	<b>108,472</b>	<b>1,538,260</b>	<b>1,761,885</b>	<b>223,625</b>

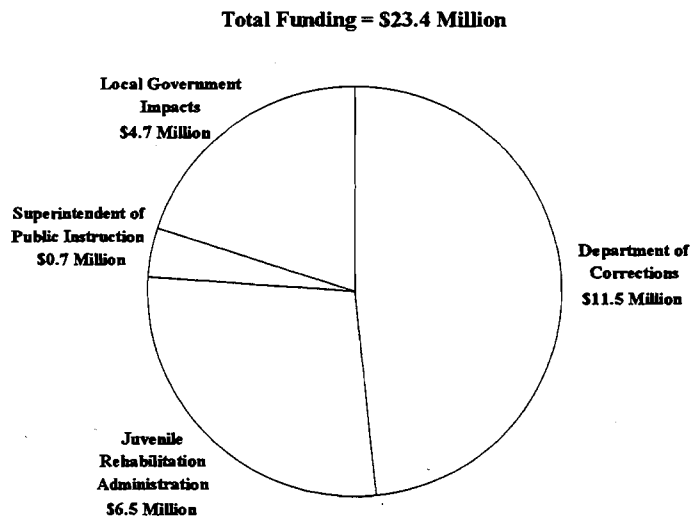
## **Fiscal Issues of Statewide Significance**

### **Juvenile Justice Reform**

Chapter 338, Laws of 1997 (E3SHB 3900) addresses a wide number of juvenile offender issues. Major provisions of the measure include:

- Automatically transferring 16- and 17-year-olds charged with certain crimes and certain criminal histories to the adult system.
- Revising and simplifying the current juvenile sentencing method.
- Imposing certain housing and education requirements for offenders under the age of 18 tried as adults.
- Increasing firearm disposition enhancements.
- Establishing an intensive parole and aftercare program for high-risk offenders.
- Providing for a chemical dependency disposition alternative.
- Increasing judicial discretion with respect to juvenile offenders.
- Requiring increased parental involvement and accountability of juvenile offenders.

A total of \$23.4 million (\$14.7 million general fund-state; \$8.7 million Violence Reduction and Drug Enforcement Account) is appropriated to carry out the provisions of the measure. The appropriations provide funding for both state and local government impacts and are summarized on the chart below.



**Stadium and Exhibition Center Financing Plan (SHB 2192)**

Chapter 220, Laws of 1997 (ESHB 2192) was enacted by the 1997 Legislature and was submitted to the voters of the state as Referendum No. 48 on June 17, 1997. It creates a new Public Stadium Authority (PSA) for the construction of a multi-use stadium and exhibition facility. The PSA may accept the Kingdome property (but not the outstanding debt), select the site, construct a stadium and exhibition center, and enter into a long-term development and lease agreement with a professional football team.

The construction of the new \$425 million football stadium and exhibition center is financed by a combination of state, local, and private sources including a state sales tax credit, new lottery games, an extension of the hotel/motel tax from the year 2015 to 2020, a deferral of sales taxes on construction, and admissions and parking taxes at the facility. In addition, the team is required to contribute \$100 million. The state is authorized to issue general obligation bonds for the construction of the new stadium and exhibition center. The total public share of the stadium and exhibition center is limited to \$300 million. Any revenues from the state and local tax sources that are in excess of the bond payments are used for youth athletic facility grants.

In order to refinance the current Kingdome debt, King County's share of the current 2 percent hotel/motel tax is extended from the year 2012 to 2015. In addition, 75 percent of the current county-imposed 1 percent car rental tax must be used for Kingdome repairs and debt.

Project Costs	<u>\$ in Millions</u>
Stadium	\$325
Exhibition Center	45
Parking Structure	27
Site Preparation	27
1) Sub Total	<u>\$425</u>
Minus Private Contribution	-\$100
Minus Sales Tax Deferral	-27
Minus Interest Income	-14
Plus Contingency Amount	10
<b>Total Cost</b>	<u><b>\$294</b></u>
<b>Revenue Sources for Bond Repayment</b>	
0.016 Percent Sales Tax Credit	\$101
New Lottery Games	127
Hotel/Motel Extension (2015-2020)	40
10 Percent Admissions Tax	52
10 Percent Parking Tax	4
<b>Total Revenues</b>	<u><b>\$324</b></u>

### **Changes in Health Services Account Program Expenditures and Revenues**

#### **Overview**

One of the key challenges facing policy makers in 1997 was how to maintain programs funded from the Health Services Account within the available revenues. If no changes were made, the cost of the low-income medical care, public health, and health policy programs funded from the Health Services Account were projected to increase from \$549 million in the 1995-97 biennium to \$749 million in the 1997-99 biennium. Three factors account for almost all of this increase:

1. Growth in subsidized Basic Health Plan (BHP) enrollments from 46,000 people at the beginning of the 1995-97 biennium to 130,000 at the end. This added approximately \$100 million to 1997-99 Health Services Account carryforward costs.
2. Growth in Medicaid enrollment by children whose families are not on welfare, but who have incomes below 200 percent of the federal poverty level. Almost a quarter of a million such children are expected to be covered by Medicaid in 1997-99, compared to 127,000 at the beginning of the 1995-97 biennium. This added approximately \$55 million to the 1997-99 Health Services Account costs.
3. Higher BHP and Medicaid costs per covered person as a result of medical inflation, which is expected to add approximately \$40 million to 1997-99 costs.

In contrast to these expenditure increases, the revenues and fund balances available in the account were projected to total only \$584 million in 1997-99, resulting in a \$165 million Health Services Account deficit if no changes were made.

The 1997-99 budget manages this shortfall by:

- Shifting \$97.5 million of programs previously funded from the Health Services Account to the state general fund.
- Reducing or eliminating \$23 million of programs and services. These include eliminating the Health Care Policy Board and transferring some duties to the Department of Health (\$4.4 million); reducing training and data systems support for public health officials (\$2.6 million); eliminating BHP marketing, outreach, and insurance broker commissions (\$2.5 million); and eliminating state funding for health care data standards development (\$1.6 million).
- Making \$44.5 million of changes in the BHP subsidy structure, co-payment schedule, and benefits package.

In addition to the expenditure changes described above, the budget also anticipates that Health Services Account revenues will increase as a result of clarification of the point in the retail process at which the tobacco products tax is to be levied (\$2.9 million); increased Liquor Control Board enforcement of existing cigarette tax requirements (\$7.8 million); and delaying the conversion from Generally Accepted Accounting Principles (GAAP) to cash accounting for the Health

Services Account fund balance. As shown below, these revenue changes will permit an increase in subsidized BHP enrollments.

**Changes in the Basic Health Plan**

Total state funding for the BHP will increase by \$100 million, from \$239 million in 1995-97 to \$339 million in 1997-99. Total enrollment in the subsidized BHP will increase by 11,500, to an average of 142,000 people per month.

To help cover the cost of the increased enrollments and medical inflation, the following changes are anticipated in the BHP design:

- The state subsidy will be pegged to the cost of the lowest rather than the highest-priced bidder.
- The minimum premium will be raised from \$10 to \$12 for people between 66-100 percent of the poverty level, and to \$15 for people between 100-125 percent of the poverty level.
- Co-payments will be increased from \$8 to \$10 for office visits; from \$50 to \$100 for hospital admissions; from \$25 to \$50 for emergency room visits; and from \$8 to \$25 for outpatient surgeries and procedures.
- Organizations which are paid to deliver BHP services will be required to pay \$30 of the monthly premium for individuals whose BHP enrollment they wish to sponsor. The state will continue to subsidize the remaining 50-60 percent of enrollment costs.
- The share of the monthly premium paid by the state will be reduced by an average of about 15 percent for persons between 125-200 percent of the poverty level.

**Coverage for Children from Low Income Families**

The 1997-99 budget does not make any changes in the "BHP-Plus" coverage for children from low-income families. Children whose family income is below 200 percent of the federal poverty level will continue to be covered by Medicaid, at no cost to their families. Over 250,000 children are expected to be receiving this coverage by the end of the 1997-99 biennium. The total state and federal cost of this coverage is budgeted to increase from about \$170 million in 1995-97 to about \$240 million in 1997-99.

**Welfare Reform**

Chapter 58, Laws of 1997, Partial Veto (EHB 3901)

In August 1996, Congress fundamentally changed how welfare programs are operated and funded in the United States through passage of Public Law 104-193 -- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In brief, the new law:

- Eliminates Aid to Families with Dependent Children (AFDC) and replaces it with a temporary, work-based program called Temporary Assistance to Needy Families (TANF).

## **1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

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- Institutes lifetime limits on receipt of public assistance and an expectation that those receiving welfare will work toward obtaining paid employment while receiving assistance.
- Creates a new method of funding public assistance programs. Washington's TANF program is funded through a block grant – \$404 million in funding every year, regardless of how many families are on assistance.
- Allows flexibility in the level of state funding for welfare. Washington can choose how much state funding is provided for welfare, as long as state funding is at least \$290 million per year.
- Permits states to rethink their welfare programs without federal barriers to creativity.
- The federal legislation also terminates eligibility for most legal immigrants from public assistance programs, including food stamps, Supplemental Security Income (SSI), TANF, and Medicaid (low-income medical care). States may choose to provide assistance under TANF and Medicaid for legal immigrants who already reside in the state. States may pay for all public assistance for legal immigrants not yet residing in the state and for all legal immigrants under food stamps and SSI.

Under the state Welfare Reform bill (Chapter 58, Laws of 1997, Partial Veto – EHB 3901), the Department of Social and Health Services (DSHS) is required to base program activities on specific outcome measures which indicate the effectiveness of each activity. The Department is responsible for achieving welfare caseload reduction in implementing the WorkFirst program and may use any of several methods for achieving goals.

- As in the federal legislation, the Legislature's plan makes a block grant of federal and state funds to DSHS. The Department will receive all federal TANF and child care block grant funds and at least the state funding required by the federal law each year.
- The Department may transfer funding between appropriation categories and among types of expenditure to achieve the goals set forth in Chapter 58, Laws of 1997, Partial Veto (EHB 3901). The Department may implement WorkFirst on a regional basis, tailoring welfare programs to the needs of each region of the state.
- DSHS may competitively contract with state agencies, nonprofit organizations, and other entities for implementation of WorkFirst. The Department will be able to measure the success of each contractor and branch office involved in WorkFirst.

Chapter 57, Laws of 1997 (ESB 6098) provides benefits for legal immigrants residing in Washington State. Eligible legal immigrants residing in the state before passage of the bill may receive public assistance benefits equivalent to U.S. citizens. Legal immigrants arriving in the state after passage of the bill must wait one year before becoming eligible to apply for public assistance benefits, except for the disabled. Disabled legal immigrants may apply for General Assistance - Unemployable benefits at any time. Funding is provided for legal immigrants to continue receiving cash benefits, food stamp benefits, and Medicaid services.

## Revenue Legislation

### Major Tax Reduction Legislation

#### **Permanent Property Tax Reduction -- \$194.6 Million General Fund - State Revenue Decrease**

Chapter 3, Laws of 1997 (SB 5835) permanently reduces the state property tax by 4.7 percent beginning in 1998, reduces the 106 percent limit on state property tax growth to the lesser of 106 percent or inflation, and provides a limit on sudden growth in property values for taxes collected in 1999. In addition, the 106 percent limit is reduced for all local districts with populations over 10,000. These districts may levy up to the 106 percent limit with a majority plus one vote of the governing body. In local districts with only three board members, the approval of two of three members is necessary to levy up to the 106 percent limit. This bill has been put to the voters as Referendum 47 for their action at the November 1997 general election.

#### **State Property Tax Reduction -- \$26.4 Million General Fund - State Revenue Decrease**

Chapter 2, Laws of 1997 (EHB 1417) reduces the state property tax collected in 1997 by 4.7 percent. It reduces 1995-97 revenues by \$32.3 million, and 1997-99 revenues by \$26.4 million.

#### **Business and Occupation (B&O) Tax -- \$94.3 Million General Fund - State Revenue Decrease**

The B&O tax rate is reduced to 1.5 percent on all service activities in Chapter 7, Laws of 1997 (EHB 1821). Currently the base rate for selected business services is 2.0 percent, financial services is 1.6, percent and "other services" is 1.75 percent. These reductions take effect July 1, 1998.

**Intangible Property Exemption -- \$589,000 General Fund - State Revenue Decrease**  
Chapter 181, Laws of 1997 (ESSB 5286) exempts intangible personal property from property taxation. Intangible property includes items such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, and permits. The exemption is effective for valuation of property in 1998 for taxes due in 1999. In addition to the general fund loss, shifts of property taxes to homeowners and to businesses without intangible assets will total \$5.1 million during calendar year 1999. Losses in calendar year 2000 will be \$1.1 million while shifts will total \$5.5 million. Local taxing districts will experience a loss of \$2.5 million with shifts totaling \$13.7 million.

### Other Tax Legislation

#### **Assisting Distressed Rural Counties -- \$12.0 Million General Fund - State Revenue Decrease**

Chapter 366, Laws of 1997, Partial veto (2SSB 5740) allows distressed rural counties to levy a local sales tax for infrastructure purposes which is credited against the state sales tax. The bill also expands and extends the current distressed B&O tax credit program: (a) the individual company cap of \$300,000 is removed; (b) the program's termination date of July 1, 1998 is removed; and (c) \$4,000 in tax benefits per new employee is granted, (rather than \$2,000) if they receive annual wages and benefits of \$40,000 or more per year. In addition, rural enterprises zones are authorized and DCTED is directed to provide a series of economic development and business assistance services in distressed counties.

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### **Offsetting an Increase in the Beer Tax -- \$9.5 Million General Fund - State Revenue Decrease**

The general fund portion of the beer tax is reduced beginning July 1, 1997, under Chapter 451, Laws of 1997 (SSB 5845). Distributions to cities, counties, the Violence Reduction and Drug Enforcement (VRDE) Account, and the Health Services Account are unchanged by this bill.

### **Tax Incentives for Warehouse and Grain Operations -- \$6.6 Million General Fund - State Revenue Decrease**

Chapter 450, Laws of 1997 (E2SSB 5074) offers tax exemptions for large warehouse operations and grain elevator operators. Warehouses over 200,000 square feet are exempt on 50 percent of machinery and equipment purchases and 100 percent of construction costs. Grain elevators with capacities between one million and two million bushels receive 50 percent exemption of both machinery and equipment and construction. Grain elevators larger than two million bushels receive a 50 percent exemption on machinery and equipment and 100 percent on construction. The tax incentives listed are provided in the form of remittances. Applicable taxes are fully paid and then reimbursements are made by the Department of Revenue for the state portion of the sales tax.

### **Financing a New Football Stadium -- \$6.8 Million General Fund - State Revenue Decrease**

A new Public Stadium Authority is created and a financing package is provided for the construction of a multi-use stadium and exhibition facility in Chapter 220, Laws of 1997 (ESHB 2192). The state will sell general obligation bonds to be repaid from state, local, and private revenue sources. These sources consist of a 0.016 percent sales tax credit in King County, new lottery games, an

admissions tax and a parking tax at the new facility, an extension of the local hotel motel tax, and \$110 million in private contributions. In addition, the bill includes a sales tax deferral on the construction costs and a leasehold excise tax exemption for the public areas of the stadium. \$10 million of the private contribution and all excess revenues are for youth athletic facility grants. This bill has been put to the voters as Referendum 47 for their action at the June 1997 special election.

### **Revising the Juvenile Code -- \$6.3 Million General Fund - State Revenue Decrease**

The omnibus juvenile justice bill, Chapter 338, Laws of 1997 (E3SHB 3900), includes a change to the distribution of the Motor Vehicle Excise Tax (MVET). A new distribution of revenue that was deposited into the general fund is now deposited in the Violence Reduction and Drug Enforcement Account.

### **Coal-fired Thermal Electric Generating Facilities (Centralia Steam Plant) --\$5 Million General Fund - State Revenue Decrease**

Chapter 368, Laws of 1997 (SHB 1257) assists thermal electric generating facilities in reducing air pollution by allowing a series of tax exemptions. A new sales tax exemption is created for purchases of new air pollution control equipment. Beginning January 1, 1999, the purchase of coal is exempt from sales tax. Until the thermal electric generating facilities have reduced their emissions below 10,000 tons of sulfur dioxide per year, the owners of the facilities will pay the sales tax into the Sulfur Dioxide Abatement Account. When the emissions have been reduced, the owners will receive the funds from this account. The air pollution control equipment is also exempt from state and local property tax.



**Insurance Premiums Tax Credit -- \$4.8 Million General Fund - State Revenue Decrease**

Chapter 300, Laws of 1997 (SSB 5334) provides a tax credit for insurance companies that pay assessments to guaranty associations. Insurance guaranty associations assess member insurance companies after insolvency occurs to raise funds to protect policyholders adversely affected by the insolvency. This bill allows a credit against the insurance premiums tax for the amount of these assessments.

**Increased Cigarette Tax Enforcement -- \$2.5 Million General Fund - State Revenue Increase**

Chapter 420, Laws of 1997, Partial Veto (ESHB 2272) transfers the enforcement of cigarette taxes from the Department of Revenue to the Liquor Control Board. In addition, the Health Services Account and the Violence Reduction and Drug Enforcement Account will receive increased revenues.

**Modifying Local Public Health Financing -- \$1.7 Million General Fund - State Revenue Decrease**

Chapter 333, Laws of 1997 (HB 1420) includes newly incorporated city populations in the calculation of city contributions to counties for public health purposes. The unexpended balance in the county Sales and Use Tax Equalization Account that previously was deposited in the general fund is used to cover these additional costs.

**Small Business B&O Credit -- \$386,000 General Fund -- State Revenue Decrease**  
Chapter 238, Laws of 1997 (HB 1261) directs the Department of Revenue to produce a tax credit table for use by taxpayers in taking the small business B&O tax credit. To simplify reporting, the table will cross reference tax liabilities with tax credits.

**B&O Wholesale Car Auctions -- \$825,000 General Fund - State Revenue Decrease**

A B&O tax exemption for amounts received by motor vehicle manufacturers and their financing subsidiaries from the sale of motor vehicles at wholesale auctions to dealers licensed in this or another state is provided in Chapter 4, Laws of 1997 (HB 1959).

**Tax Exemptions for Small Water Districts -- \$776,00 General Fund - State Revenue Decrease**

Small water distribution businesses are exempt from public utility and B&O taxes through July 1, 2003, under Chapter 407, Laws of 1997 (SHB 1592). The water district or satellite system management agency must spend at least 90 percent of the tax exemption to maintain and upgrade their systems.

**Tax Exemption for Vessel Manufacturers and Dealers -- \$531,000 General Fund - State Revenue Decrease**

Manufacturers and dealers are exempt from use tax if a vessel or vessel trailer is used for demonstration, sales promotion, or certain other purposes under Chapter 293, Laws of 1997 (HB 1267).

**Aircraft Parts Sales Tax Exemption -- \$386,000 General Fund - State Revenue Decrease**

Chapter 302, Laws of 1997 (SSB 5359) clarifies an existing sales and use tax exemption for materials used in the design and development of aircraft parts and equipment for small aircraft businesses.

**Nonprofit Camps and Conferences -- \$297,000 General Fund - State Revenue Decrease**

Chapter 388, Laws of 1997 (SB 5402) creates B&O and sales tax exemptions for lodging, food and meals, and certain products provided or sold at a nonprofit

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camp or conference center, if the nonprofit camp or conference center is exempt from property taxes.

**Farm Worker Housing -- \$288,000 General Fund - State Revenue Decrease**  
Under Chapter 438, Laws of 1997 (SB 5193), the exemption from the sales and use tax is extended to agricultural employee housing provided by housing authorities, government agencies, and nonprofit organizations.

**Motion Picture and Video Production Equipment and Services - \$226,000 General Fund - State Revenue Decrease**  
The sales and use tax exemption on production equipment rented to motion picture or video production businesses is expanded to include other vehicles used solely for production activities in Chapter 61, Laws of 1997, Partial Veto (HB 1813).

**Taxation of Membership Sales in Discount Programs - \$198,000 General Fund - State Revenue Decrease**  
In Chapter 408, Laws of 1997, (SB 5195), a B&O exemption is provided for sales of memberships when the membership materials are delivered out of state.

**Interest and Penalty Administration - Department of Revenue -- \$178,000 General Fund - State Revenue Decrease**  
Chapter 157, Laws of 1997, Partial Veto (SHB 1342) makes the computation of interest on excise tax liabilities and refunds more uniform. The bill also makes the interest rate used for computing tax refunds equal to the rate used for tax liabilities.

**Tax Exemption for Motor Vehicles -- \$150,000 General Fund - State Revenue Decrease**  
Chapter 301, laws of 1997 (SB 5353) expands the use tax exemption for vehicles

owned by new residents to include vehicles such as motorcycles and mopeds.

**Exemption for Prepayments for Health Care Services Provided Under Medicare -- No General Fund - State Revenue Impact**  
Chapter 154, Laws of 1997 (SHB 1219) makes the exemption for Medicare prepayments under the health care premiums and prepayments tax permanent. (\$15.5 million Health Services Account reduction)

**Improving the Liquor License Schematic -- \$43,000 General Fund - State Revenue Decrease**  
The current structure for liquor licenses is streamlined in Chapter 321, Laws of 1997, Partial Veto (SSB 5173). The net effect of the changes in liquor license fees will result in a decrease in general fund revenues.

### **Budget Driven Revenue and Other Revenue Legislation**

**New On-line Lottery Games -- \$7.1 Million General Fund - State Revenue Increase**  
The Lottery Commission will introduce a new on-line games in fiscal year 1998. The increased lottery activity will generate an additional \$7 million in general fund revenues.

**Excess Liquor Tax Distribution to the General Fund -- 840,000 General Fund - State Revenue Increase**  
This increase reflects the net reduction in the amount provided for expenditures for the Liquor Control Board and therefore increases the amount returned to the general fund.

**Inspection of Cosmetology Schools, Salons, and Shops -- \$254,000 General Fund - State Revenue Increase**  
The Department of Licensing will inspect schools of cosmetology and barbering at least once a year and inspect salons and shops at

least once every two years. The increased inspections will result in new businesses being licensed and create new revenue.

**Other Appropriation and Transfer Legislation**

**Appropriation to Transportation Fund -- \$50 Million General Fund - State**

The transportation budget (Chapter 457, Laws of 1997, Partial Veto -- ESSB 6061) contains a \$50 million general fund appropriation to the Transportation Fund in fiscal year 1997.

**Forest Practices Appeals Board -- \$8,000 General Fund - State**

Chapter 423, Laws of 1997 (SSB 5119) includes an \$8,000 appropriation to the Environmental Hearings Office for an increase in the per diem compensation of forest practices appeals board members.

**Summary of Vetoes**

The Governor vetoed or partially vetoed 15 bills from the 1997 legislative session that had a revenue impact for the 1997-99 biennium (not including the vetoes of the original property tax and B&O tax bills.) The Governor totally vetoed 7 revenue bills and also partially vetoed another 8 revenue bills, but only 4 of the partial vetoes had any revenue impact for the 1997-99 biennium. In addition, the Governor also vetoed a transfer of revenue from the general fund to the Transportation Fund. The following is a summary of each of the vetoes having a revenue impact.

**Ferry Fuel (Full Veto)**

ESHB 1011 provided a sales tax exemption for fuel purchased to operate ferries by the state or a county. As enacted by the Legislature, ESHB 1011 decreased general

fund revenues for the 1997-99 biennium by \$1.5 million.

**Reimbursing Sellers (Full Veto)**

ESHB 1327 allowed retailers to retain a portion of the sales tax collected as reimbursement for the administrative costs of collecting the state retail sales tax. As enacted by the Legislature, ESHB 1327 decreased general fund revenues for the 1997-99 biennium by \$29.7 million.

**B&O Exemption Agricultural Commissions (Full Veto)**

SHB 1791 exempted from the business and occupation tax, business activity conducted for an statutorily created agricultural commodity commission if the activity is approved by a referendum conducted by the commission. As enacted by the Legislature, SHB 1791 decreased general fund revenues for the 1997-99 biennium by \$52,000.

**Film and Video Exemption (Partial Veto)**

Chapter 61, Laws of 1997, Partial Veto (SHB 1813) expanded the sales and use tax exemption on production equipment rented to motion picture or video production businesses to include other vehicles used solely for production activities. As enacted by the Legislature, SHB 1813 decreased general fund revenues for the 1997-99 biennium by \$227,000. The effect of the Governor's veto is a decrease in general fund revenues for the 1997-99 biennium of \$208,000, a difference of \$19,000.

**Transferring Cigarette and Tobacco Tax Enforcement (Partial Veto)**

Chapter 420, Laws of 1997, Partial Veto (ESHB 2272) transferred primary enforcement responsibility for cigarette and tobacco tax laws from the Department of Revenue to the Liquor Control Board. The Governor vetoed both the schedule of required collection amounts and the authority

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to negotiate compacts with Indian tribes. As enacted by the Legislature, ESHB 2272 increased general fund revenues for the 1997-99 biennium by \$2.5 million.

### **Tax Exemption for Weather Damage (Full Veto)**

SSB 5157 established a sales and use tax exemption for labor, services, and materials used in repairing buildings and replacement of private automobiles damaged by natural disasters occurring between November 1, 1995 and June 30, 1997. As enacted by the Legislature, SSB 5157 decreased general fund revenues for the 1997-99 biennium by \$2.3 million.

### **Hay and Alfalfa (Partial Veto)**

Chapter 384, Laws of 1997, Partial Veto (SSB 5175) provided that cubing of hay or alfalfa is a processing activity not a manufacturing activity for tax purposes, wherever it is performed. The effect of this change is to exempt the activity if done away from the farm and sold to an out-of-state customer. SSB 5175 also lowered the business and occupations tax rate to 0.11 percent on wholesale sales of cubed hay and alfalfa and conditioned seed. The Governor vetoed the section containing the B&O tax rate reductions. As enacted by the Legislature, SSB 5175 decreased general fund revenues for the 1997-99 biennium by \$881,300. The effect of the Governor's veto is a decrease in general fund revenues for the 1997-99 biennium of \$403,600, a difference of \$477,700.

### **Coin-Operated Car Wash (Full Veto)**

SB 5559 provided a sales and use tax exemption for coin-operated self-service motor vehicle wash and wax facilities. As enacted by the Legislature, SB 5559 decreased general fund revenues for the 1997-99 biennium by \$1.1 million.

### **Property Management (Full Veto)**

SB 5688 exempted from the business and occupation tax, payments received by property management companies for the payment of wages to on-site personnel. As enacted by the Legislature, SB 5688 decreased general fund revenues for the 1997-99 biennium by \$1.3 million.

### **Bare Boat Charters (Full Veto)**

SSB 5721 created a new retail sales and use tax exemption for the purchase of vessels placed in "bare-boat" charter service. As enacted by the Legislature, SSB 5721 decreased general fund revenues for the 1997-99 biennium by \$793,000.

### **Repeal Syrup Tax (Partial Veto)**

Chapter 306, Laws of 1997, Partial Veto (SSB 5737) reduced the carbonated beverage syrup tax from one dollar per gallon to fifty cents per gallon, reducing revenues to the Violence Reduction and Drug Enforcement (VRDE) account by \$7.7 million in the 1997-99 biennium and appropriated \$7.7 million from the general fund to the VRDE account. The Governor vetoed the reduction in the syrup tax rate and retained the appropriation.

### **Transfer to Transportation Fund (Full Veto)**

The transportation budget (Chapter 457, Laws of 1997, Partial Veto -- ESSB 6061) contained a \$50 million general fund transfer to the Transportation Fund in fiscal year 1999. This transfer reduced the 601 spending limit in fiscal year 1999 by \$50 million. The Governor vetoed this transfer.

## **Legislative**

Appropriations to legislative agencies provide carryforward funding for statutory duties, as well as enhancements in selected areas.

Through the House of Representatives and the Senate, funding is provided for the Legislative Ethics Board, including the addition of one full-time staff person. A joint study of higher education financial aid and tuition is provided one-time funding, and continued analysis of local government fiscal data is funded through the Legislative Evaluation and Accountability Program (LEAP) Committee.

Under the legislative appropriations, the Joint Legislative Systems Committee will coordinate centralized computer purchasing for the House of Representatives, Senate, and Statute Law Committee.

## Judicial

### Court of Appeals

Effective July 1, 1998, \$271,000 from the state general fund is provided for a new Court of Appeals judge position and support staff for Division I, Seattle. Additional funding is also provided for remodeling Division I court facilities in order to accommodate the new judge and staff.

### Office of the Administrator for the Courts

The amount of \$12.9 million from the Judicial Information System Account is provided for the continued improvements and upgrades to the Judicial Information System. The computer system which connects 305 courts across the state is used for scheduling cases, recording fines and payments, managing court calendars, and tracking criminal history.

### Office of Public Defense

Funding is provided to increase reimbursement for private attorneys providing constitutionally-mandated indigent appellate defense in non-death penalty cases. Reimbursement is increased from \$1,900 per case to \$2,100 per case.

## Governmental Operations

### Public Disclosure Commission

An amount of \$430,000 from the state general fund is provided for enhanced public disclosure functions. The use of technology will improve the filing of public disclosure documents and enhance public access via the Internet, fax-on-demand technology, document imaging, and other customer service improvements.

### Office of the Attorney General

An amount of \$500,000 from the state general fund and \$500,000 in other funds is provided for selective salary increases for the Attorney General to retain experienced legal staff by providing competitive salaries for Assistant Attorneys General.

Initial funding of \$300,000 from the state general fund is provided for assessment of the public health and the environmental impacts of pollution in the Spokane River basin and determination of potential legal remedies.

### Department of Community, Trade, and Economic Development

An additional \$2.0 million is provided for indigent civil legal services. These funds are to be expended in accordance with Chapter 319, Laws of 1997 (ESHB 2276).

The sum of \$500,000 is provided for the Washington Technology Center to increase the number of research and development projects that are conducted in conjunction with private sector partners.

The amount of \$600,000 is provided for three counties to recruit community volunteers to represent the interests of children in dependency proceedings. Funding is also provided for an evaluation of the effectiveness of the Court Appointed Special Advocates (CASA) program in improving outcomes for dependent children.

Legislation enacted during the 1997

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session (Chapter 429, Laws of 1997, Partial Veto -- ESB 6094) directs six western Washington counties to analyze whether sufficient land exists within their urban growth areas to provide for both residential and non-residential growth over the next 10 to 20 years. The budget provides \$2 million for grants to local governments to assist them in conducting this analysis. The analysis is to include an inventory of available lands for development and will help determine whether county-wide planning policies are meeting planned residential densities and uses. The counties doing the inventory and analysis are King, Pierce, Snohomish, Clark, Kitsap, and Thurston.

The budget includes approximately \$2.7 million in reductions in a variety of Community, Trade, and Economic Development programs, including growth management, international trade programs, business recruitment activities, and administrative functions.

### **Department of General Administration**

To replace diminishing federal food volumes, the amount of \$2 million from the state general fund is provided to continue purchasing food products for the state's food assistance network.

### **Office of the Insurance Commissioner**

An amount of \$600,000 from the Insurance Commissioner's Regulatory Account is provided for increased oversight of life insurance marketing. A recently revised settlement with the Prudential Insurance Company will provide restitution to Washington policyholders, as well as making \$600,000 available to the state for increased regulatory oversight of the marketing practices of Prudential.

### **Liquor Control Board**

The amount of \$2.8 million from the state general fund is provided to implement Chapter 420, Laws of 1997, Partial Veto (ESHB 2272), which transfers primary enforcement authority for cigarette and tobacco taxes from the Department of Revenue to the Liquor Control Board. As a result of the transfer, lost revenue due to cigarette and tobacco tax evasion is expected to be substantially reduced.

### **Military Department**

During the 1995-97 biennium, Washington State experienced five natural disasters that received Presidential Disaster Declarations. Upon receiving a Presidential Disaster Declaration, the state qualifies for federal disaster assistance through the Federal Emergency Management Agency (FEMA). FEMA provides federal funds for 75 percent of eligible disaster recovery costs, while state and local governments provide the remaining 25 percent as a matching requirement to receive the federal assistance.

The amounts of \$24 million in state funds and \$95.4 million in federal funds are provided for disaster recovery costs in the 1997-99 biennium. State funding is provided for the local match requirements for the February 1996 floods. In addition, Chapter 251, Laws of 1997 (HB 2267), creates a new Disaster Response Account to provide greater accountability and flexibility in paying for disaster recovery costs.

### **Human Services**

The Human Services area is separated into two sections: The Department of Social and Health Services (DSHS) and Other Human Services. The DSHS budget is displayed by program division in order to better describe the costs of particular services provided by the Department. The Other Human Services section displays budgets at the department

level, and includes the Department of Corrections, the Department of Labor and Industries, the Employment Security Department, the Health Care Authority, the Department of Health, and other human services related agencies.

In many areas of state government, private firms provide services which might otherwise be provided directly by the private sector. Examples include nursing homes, outpatient mental health services, drug treatment, and Department of Corrections (DOC) work release facilities. Consistent with policy on state employee compensation, the budget funds a 3 percent rate increase for these vendors on July 1, 1997. DSHS is directed to target funding for vendor rate increases to address those areas in which recruitment, retention or quality of private sector services providers is a concern. Also, DOC work release facility contractors and educational services providers and Early Childhood Education and Assistance Program (ECEAP) vendors and the Washington Association of Sheriffs and Police Chiefs will receive the cost of living increase.

## **Department of Social & Health Services**

### **Children and Family Services**

The budget provides \$26.4 million from the state general fund and \$10.6 million from General Fund-Federal to improve foster care services provided by foster parents under contract to the Department of Social and Health Services (DSHS). Enhancements include funding for the increased foster care and adoption support caseloads, an increase in the foster care basic payment rate of \$25 per month per child, funding for recruitment and retention of foster parents, and an increase in the rate paid to child care placing agencies.

Amounts of \$19.6 million from the state general fund and \$8.1 million from General Fund-Federal are provided for 223

additional social workers in Child Protective Services (CPS). Funding is also provided for additional clerical workers, supervisors, and regional staff. The additional workers will reduce the ratio of workers to cases from 1:32 to 1:29. Funding is provided to serve American Indian children in the CPS system.

The budget provides \$2.3 million from the state general fund and \$2.2 million from General Fund-Federal for a new system to gather relevant information about children in foster care and to provide that information to foster parents in a timely fashion. The program will create a "passport" for each child in foster care over 90 days. The passport will accompany the child when foster care placements change.

The budget provides \$2.0 million from the state general fund and \$600,000 from General Fund-Federal for intensive assessments to be done on foster children who are in care over 90 days and who are expected to be in care over a long period. Assessments will identify services children need and assist in identifying permanency options for these children.

### **Juvenile Rehabilitation Administration**

A total of \$202 million in state, federal, and local funds is provided for the Division of Juvenile Rehabilitation Administration (JRA) for the 1997-99 biennium. This increase of approximately 5.9 percent over JRA's estimated expenditures during the 1995-97 biennium is the smallest increase in the last decade, and partly reflects a projected leveling off of the number of youth committed to JRA. Savings of \$4.7 million are achieved by not opening a new JRA facility on the grounds of Eastern State Hospital. Additional savings are achieved by eliminating parole services for all offenders except sex offenders and those assessed as high risk, consolidating administrative functions, improving efficiencies in ongoing

activities, and applying internal best practices throughout the JRA system.

Amounts of \$14.7 million from the state general fund, \$8.7 million from the Violence Reduction and Drug Enforcement Account, and \$6,000 from General Fund-Local are provided to implement Chapter 338, Laws of 1997 (E3SHB 3900) which makes numerous changes to the way juveniles are sentenced and adjudicated. Please see summary on page 2. Appropriations are made to JRA, the Department of Corrections, and to the Office of Superintendent of Public Instruction. Moneys provided to JRA fund the state and local government impact of the legislation.

### **Mental Health**

A total of \$474.7 million in state and federal funds is provided for counseling, case management, crisis response, residential, and other community mental health services administered by Regional Support Networks (RSNs). Of this total, \$9.7 million (\$4.7 million state general fund) is specifically targeted for caseload growth in RSNs whose per-person Medicaid payment rates are below the statewide average. A total of \$106.7 million is provided for community hospitalization services, which are to be integrated with outpatient services under a single capitated managed care system. This integration is expected to result in better preventive and follow-up care, and in a savings of at least \$7.3 million (\$4.3 million state general fund) from what would be spent if inpatient and outpatient services continued to be administered separately.

Capacity and funding at Eastern and Western State Hospitals, and at the Child Study and Treatment Center, are maintained at their current level. An additional \$4.3 million from the state general fund is provided to increase the Special Commitment Center's capacity to house and treat persons

committed under the state's sexual predator law.

### **Developmental Disabilities**

The number of children and adults receiving assistance with daily living activities in their own homes and in adult family homes will increase by an average of 1,600 over the 1995-97 level, at an increased state and federal cost of \$23.9 million. To help cover the cost of this increase, payments for persons sharing a household with a parent or other relative will be limited to a maximum of \$563 per month, for a state and federal savings of \$2.4 million. Additionally, DSHS is to manage the mix and level of personal care services so that the average cost per person served does not increase above the 1997 level (adjusted for the 3 percent vendor rate increase), which is expected to avoid \$1.9 million of increased state and federal costs.

A total of \$9.5 million (\$5.8 million state general fund) is provided in the Developmental Disabilities and the Vocational Rehabilitation budgets for job training and placement services, or other productive daytime activities, for approximately 1,400 young people with developmental disabilities graduating from special education programs in 1995, 1996, 1997, and 1998.

A total of \$1.3 million (\$0.8 million state general fund) is provided to help assure that adult family homes are equipped to serve the approximately 1,000 adults with developmental disabilities who live in such facilities. Both the frequency of case manager monitoring visits, and the amount of training provided to managers of such homes, are to be doubled.



Yakima Valley School will receive \$1.1 million of increased state and federal funding to develop a 16-bed respite program, and to provide nursing assessments, consultation, and quality assurance for people with developmental disabilities throughout central Washington.

### **Long-Term Care**

The number of elderly and disabled people receiving long-term care in their own homes, adults family homes, boarding homes, and assisted living apartments is budgeted to increase by about 2,200 each year of the 1997-99 biennium. Total state and federal funding for such services will increase by \$130 million over the 1995-97 level. The budget also provides a total of about \$5 million in enhancements to help assure that community programs are providing safe and quality care. These include hiring additional licensing staff so that adult family homes can be inspected an average of at least once each year; doubling the number of boarding home inspectors; employing additional Area Agency on Aging case managers to monitor the delivery of in-home care; and increasing by about 60 percent the number of registered nurses employed in state long-term care offices.

Because of the increased availability of community care options, the number of people receiving publicly-funded nursing home care is expected to decrease by 480 by the end of the 1997-99 biennium, for a savings of \$17.8 million (\$8.5 million state general fund). Nursing home payment rates are expected to increase by an average of 5.7 percent per year above the fiscal year 1997 level, at a total cost of \$93.6 million (\$44.9 million state general fund).

### **Economic Services**

A total of \$2 billion in state and federal funds is provided for cash assistance and WorkFirst services for about 232,000

households. This is about a 2 percent increase over caseloads in the 1995-97 biennium, the net effect of declines in Temporary Assistance for Needy Families and Supplemental Security Income caseloads and increases in the General Assistance--Unemployable and child care caseloads.

The budget provides \$84.6 million from the state general fund for legal immigrants and chemically-dependent persons who lose Supplemental Security Income (SSI) eligibility due to changes in federal law. These persons are eligible for the General Assistance-Unemployable (GA-U) program. The GA-U program is a state entitlement program with a lower grant level than the SSI program.

The budget directs that the Department administer the GA-U program within funds appropriated by the Legislature. A variety of actions may be taken to accomplish this directive. This will result in a state general fund savings of \$35.2 million.

In Economic Services, an additional \$138 million of state and federal funds are provided for the major welfare reform initiatives: a new integrated employment child care system, enhanced work preparation and placement services, and a food subsidy program for legal immigrants who were made ineligible for federal food stamps. Additional flexible funds are also provided to DSHS in compliance with the Washington WorkFirst Temporary Assistance for Needy Families Act requirement to appropriate the entire federal block grant.

### **Alcohol and Substance Abuse**

The budget provides \$2.5 million from the state general fund, \$2.0 million from General Fund-Federal, and \$1.0 million from the Violence Reduction and Drug Enforcement Account for the state Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program to provide chemical dependency treatment to persons who have

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lost eligibility for the federal SSI program due to changes in the federal law. Those who successfully complete treatment may regain eligibility for SSI.

In addition, \$1.5 million general fund--state is provided to continue the Birth to Three/Parent Child Assistance Program which works with women with a history of alcohol or drug abuse to prevent the birth of children with fetal alcohol syndrome or alcohol related neurodevelopmental disorder.

### Medical Assistance

A total of \$3.9 billion in state and federal funds is provided for an average of about 770,000 people per month to receive medical and dental coverage through Medicaid and other state medical assistance programs. This is a 9 percent increase from 1995-97 in the average number of persons covered, and an 11 percent increase in total funding. The largest caseload increases are occurring among children whose families are not on welfare, but which have incomes below 200 percent of the poverty level. Over a quarter of a million such children are expected to be covered by Medicaid by the end of the 1997-99 biennium, a more than 30 percent increase from the 1995-97 level. The next largest caseload increases are among the elderly and disabled, who are also the most expensive groups to cover.

The budget makes a number of changes to help pay for these increased service levels. Competitive contracting strategies will be used to limit managed care rate increases to 3.5 percent per year for the disabled population, and to 2 percent per year for other covered groups. This will result in \$41 million of state and federal savings from what would need to be expended if such rates kept pace with national projections of medical inflation. A total of \$18.5 million will be saved through changes in interpreters services for recipients who have limited English-speaking ability. Caseload

reductions due to changes in eligibility for the state general assistance program are expected to result in \$12 million of medical assistance savings. The budget directs DSHS to seek a federal waiver under which adults who are not elderly or disabled will contribute \$10 per month toward the cost of their medical coverage. If approved, this will result in state and federal savings of \$11.6 million in the second year of the biennium.

### Vocational Rehabilitation

As discussed above, a total of \$4.1 million (\$0.9 million state general fund) is provided for job training and placement services for young people with developmental disabilities who graduate from special education programs in 1997-99. In addition, \$2.4 million (\$0.5 million state general fund) is provided for increased vocational rehabilitation services for other persons with disabilities.

### Administration and Supporting Services

The budget reduces administration in the Department of Social and Health Services. In order to implement the reduction effectively, transfers may be made from the Department's division administration budgets to the central administration budget, allowing reductions to be made in the most appropriate program. This will result in savings of \$3.0 million in the state general fund and \$2.8 million general fund-federal.

### Other Human Services

#### Health Care Authority/Basic Health Plan

As discussed in detail in the section on the Health Services Account, the budget increases enrollments in the Basic Health Plan and makes a number of changes in the co-pay and subsidy structure. An additional \$800,000 is provided for the Authority to keep pace with increased

workload in the public employee benefits programs.

**Board of Industrial Insurance Appeals**

Funding of \$1.4 million from the Medical Aid and Accident funds is provided for additional staff and office space due to an increased workload. A new relational database management system is also funded to better manage agency workload.

**Criminal Justice Training Commission**

The mandatory training of correctional and law enforcement officers provided by the Commission is fully funded. In addition, funding is also provided for the continuation of the law enforcement and correctional officer training study to improve training program in the future.

**Department of Labor and Industries**

An amount of \$3.1 million from the Medical Aid and Accident Funds is provided for improved technology in support of workers' compensation claims management service delivery and to develop and implement cost savings strategies through alternative health care delivery models and efficient medical reimbursement programs.

**Indeterminate Sentence Review Board**

Pursuant to Chapter 350, Laws of 1997 (HB 1646), \$936,000 from the state general fund is provided for continuation of the board that has jurisdiction over offenders who committed crimes prior to the implementation of the Sentencing Reform Act in 1984.

**Department of Health**

The budget provides \$6.6 million from the state general fund and \$3.4 million General Fund-Federal for the AIDS Prescription Drug Program. The program shall be operated within funds appropriated for that purpose. The Department is directed to take

action to ensure that expenditures remain within appropriations.

The budget provides \$21.0 million from the Emergency Medical and Trauma Care Account to fund Chapter 331, Laws of 1997, Partial Veto (2SSB 5127 -- Funding Trauma Care Services). Revenues generated by the bill will be deposited into the Emergency Medical and Trauma Care Services Account for providing grants to local trauma care providers to improve the state's trauma care system. Grants require regional matching funds of at least 25 percent of the total amount provided.

**Department of Veterans' Affairs**

A total of \$45.6 million (\$11.5 million state general fund) is provided for continued operation of the two state veterans' homes. Contracted field offices and counseling services will receive a 3 percent cost-of-living increase effective July 1, 1997. A total of \$144,000 is provided to recruit, train, and support volunteers to assist veterans with claims for federal benefits.

**Department of Corrections**

A total of \$846 million in state and federal funds is provided for the Department of Corrections (DOC) for the 1997-99 biennium.

A total of \$11.5 million is provided to implement Chapter 338, Laws of 1997 (E3SHB 3900), which includes a provision that requires the automatic transfer of 16- and 17-year-olds charged with certain violent crimes and certain criminal histories to the adult system. Funding to implement this legislation is also provided to the Superintendent of Public Instruction and the Juvenile Rehabilitation Administration division of DSHS. Also, \$1.6 million from the state general fund is included to provide a 3 percent vendor rate increase on July 1, 1997 for contracted work-release facilities and community colleges providing

educational services to offenders. The sum of \$500,000 from the Violence Reduction and Drug Enforcement Account and \$100,000 from federal funds (Byrne grant) through the Department of Community, Trade, and Economic Development is provided to conduct a feasibility study for the possible future replacement of the Offender Based Tracking System.

Savings of \$15.8 million are achieved through various measures including: implementing additional health care cost containment efforts; administrative reductions; reducing purchased goods, services, and equipment; delaying the opening of the Tacoma pre-release facility; eliminating selected specialists; reducing custody staff overtime; and other efficiencies and consolidations. The budget also seeks to maximize federal funding and funds approximately \$18 million in workload growth from federal rather than state funds.

### **Employment Security Department**

A total of \$7.9 million in state and federal funding is provided for unemployment insurance business reform activities which are intended to improve services to clients and reduce administrative costs through implementation of claim and adjudication call centers, overpayment detection and collection systems, and improved collection of employer wage information.

An amount of \$2.4 million from the state general fund is provided for labor market information and employer outreach services to support local workforce training and placement activities.

## **Natural Resources**

### **Department of Fish and Wildlife**

**Wild Fish Listings:** The National Marine Fisheries Service has proposed listing additional chinook, coho, and steelhead salmon in Washington as threatened or

endangered under the federal Endangered Species Act. The amount of \$1.7 million is provided for the Department of Fish and Wildlife to hire additional staff to work on the federal permits, research, and consultations that these listings will require. In addition, the sum of \$1 million is provided to continue the Department of Fish and Wildlife's Habitat Partnership program which provides technical assistance to landowners and local governments in support of fish and wildlife habitat planning activities.

**Wildlife Enforcement:** The 1997-99 budget provides \$700,000 in funds for the Department of Fish and Wildlife (WDFW) to hire five additional wildlife enforcement officers. Also, \$300,000 is provided for WDFW to contract with the U.S. Department of Agriculture to increase animal damage control efforts to protect crops, livestock, and property. The budget also includes \$195,000 to support a comprehensive program to address damage caused by the Canadian Dusky Goose population in the lower Columbia River basin.

**Licensing System:** The amount of \$687,000 is provided to the Department of Fish and Wildlife for design and development of an automated hunting and fishing license sales system. As a part of the design phase, a recreational license database will be created.

**Savings:** The 1997-99 budget reduces funding for both the state general fund and the wildlife fund supported programs in order to help fund new initiatives. A total of \$3.2 million in savings is found in the fisheries management program, hatchery operations, the aircraft division, and administrative functions.

**Department of Natural Resources**

**Fire Protection:** Funding is provided in the 1997 Supplemental budget to allow the Department of Natural Resources' Fire Prevention program to carry forward an adequate beginning balance in the Forest Fire Protection Account in the 1997-99 biennium. See the 1997 Supplemental Budget overview for more detail.

**Savings:** The budget includes a 5 percent (\$1.6 million) reduction to state general fund supported programs administered by the Department of Natural Resources. The Department is directed to find these savings without affecting legislatively-authorized funding for the fire protection and fire suppression programs during the 1997-99 biennium.

**State Parks and Recreation Commission**

**No Park Closures:** The 1997-99 budget provides \$2.0 million to open a number of new park facilities that were constructed in the 1995-97 biennium. The 1997 Supplemental Budget also includes funding to address an expected shortfall in park-generated revenues next biennium. See the 1997 Supplemental Budget overview for more detail.

**Department of Ecology**

**Litter Control:** The budget provides an additional \$4.5 million in funds from the litter account to help clean up litter along the state's roadways. The Department of Ecology will hire more Ecology Youth Corps crews to pick up litter in areas that are visible to the public. Funding is also increased for grants to local governments for litter cleanup programs, as well as for public education programs to control litter and promote awareness of the state's Model Litter Control and Recycling Act.

**Toxics Cleanups:** The budget includes \$2.2 million funding from the state toxics control account to implement the recommendations of the Model Toxics Control Act Policy Advisory Committee, as provided in Chapter 406, Laws of 1997 (ESB 7900). The recommendations focus primarily on providing more flexibility in the clean-up process and the transfer of contaminated properties. The Department of Ecology will recover from the owners of contaminated sites approximately \$2 million of the costs of implementing the recommendations of the advisory committee.

**Coastal Erosion:** The amount of \$1 million is provided to continue the study and abatement of coastal erosion in the region of Willapa Bay, Grays Harbor, and the lower Columbia River. The Department of Ecology is working cooperatively with the United State Geological Service (USGS) on this project.

**Savings:** The budget includes \$1.3 million in state general fund savings in the Department of Ecology's Shorelands program and in project coordination and administrative staff.

**Puget Sound Water Quality Work Plan**

The amount of \$2.5 million from the state general fund is provided for several agencies to implement key actions identified in the Puget Sound Water Quality Work Plan. The Department of Health will increase shellfish monitoring efforts and additional staff will help local governments address failing septic systems. The Department of Ecology will continue a pilot project to restore degraded wetlands. Finally, the Department of Fish and Wildlife is provided additional staff to work on interagency technical assistance teams to help solve problems related to declining fish stocks.

### **Pilot Landscape Management Plans**

The budget provides \$1.0 million to implement five pilot landscape management plans as provided in Chapter 290, Laws of 1997, Partial Veto (SHB 1985). The legislation, which was developed through the Timber/Fish/Wildlife process, provides an alternative means for forest landowners to meet forest practice permit requirements. Funding is provided for the Departments of Natural Resources, Fish and Wildlife, and Ecology to review, negotiate, and approve the landscape plans.

### **Transportation**

The majority of funding for transportation services is included in the Transportation Budget, not in the Omnibus Appropriations Act. The Omnibus Appropriations Act includes only a portion of the funding for the State Patrol and the Department of Licensing. Therefore, the notes contained in this section are limited. For additional information, please see the Transportation Budget section of this document.

### **Washington State Patrol**

Funding is provided for the upgrade of the Washington State Identification System (WASIS) and the Washington Crime Information Center (WACIC). The two information technology systems will be reengineered to accommodate new federal reporting requirements and new demands on the systems.

### **Department of Licensing**

The amount of \$424,000 from the state general fund is provided for the implementation of Chapter 178, Laws of 1997 (SB 5997). The bill requires the Department of Licensing to conduct additional inspections of cosmetology, barbering, esthetics, and manicuring schools, salons, and shops.

### **Public Schools**

For the 1997-99 biennium, the Legislature provided various funding enhancements. The major ones were: \$176.53 million for a 3 percent cost-of-living increase; \$50.8 million for learning improvement grants; \$19.75 million for health benefit increases; \$39.3 million for technology; \$19.98 million for instructional materials; \$6.1 million to increase the block grant; \$4.3 million to improve reading; \$2.87 million for the highly capable program; and \$2.41 million to increase levy equalization.

There were also some changes in program funding which produced savings and some program terminations. Major changes were: -\$12.65 million from changing how teacher experience and education is calculated; -\$11.35 million from delaying development of assessments by the commission on student learning; -\$4.9 million from a new audit resolution process; -\$2.97 million from terminating the state school-to-work grant program; -\$1.65 million from terminating the superintendent/principal internship program; and -\$1.5 million from reducing the Magnet School program. Details follow.

### **Cost-of-Living Increase**

An amount of \$176.53 million is appropriated to provide a 3 percent cost-of-living increase, effective September 1, 1997 for all K-12 state-funded certificated administrative, certificated instructional, and classified staff.

### **Health Benefit Increases**

An amount of \$19.75 million is appropriated to increase the 1996-97 monthly health benefit amount from \$314.51, to \$317.34 for 1997-98 and \$335.75 for 1998-99.

**Common School Construction**

A total of \$75.0 million is appropriated to the common school construction account which, when combined with other capital funds, is expected to provide state matching funds to all the eligible common school projects in the 1997-99 biennium. Of the total, \$62.4 million is appropriated from the state general fund in the 1997 supplemental budget and \$12.6 million is appropriated from the education savings account in the 1997-99 biennial budget.

**Learning Improvement Grants**

An amount of \$50.8 million is appropriated to provide grants to school districts to improve learning in reading, writing, math, and communications. The Commission on Student Learning has prepared essential learning requirements and assessments for these basic subjects for use by school districts. Funding to improve learning is focused on these subject matters and will be phased in the K-12 system starting in the elementary grades. The four subject matters constitute about 80 percent of the teaching effort in the elementary grades, 60 percent in middle schools, and about 40 percent in the high schools. Accordingly, the budget provides \$36.69 per elementary student, \$30.00 per middle school student, and \$22.95 per high school student.

**Technology Grants**

An amount of \$39.3 million is appropriated from the education savings account to provide matching grants to school district consortia for purchase of computers and other high technology classroom aids designed to improve student learning. The matching funds are to be awarded through a competitive grant process to districts with applications that show the greatest potential educational benefit. Fifteen percent of the funds are designated for districts in financial distress.

**Instructional Materials**

An amount of \$19.98 million is appropriated for the 1998-99 school year, for purchase of instructional materials such as books, software, and other technology related investments. The specific expenditure of the funds is to be determined at each school site and school districts are required to allocate all the funds to school buildings. Funds will be allocated at a rate of \$20.82 per student and will provide about \$458 for the average size classroom.

**Block Grant**

An amount of \$6.1 million is appropriated to increase the current block grant rate per student from \$26.30 to \$29.86 per student for the 1997-98 and 1998-99 school years. Part of the \$6.1 million increase represents two discontinued programs, School-to-Work and Superintendent/Principal Internships, for a total of \$3.6 million. The block grant program serves to provide discretionary funds to school districts for educational purposes.

**Reading Initiatives: Tests and Learning Grants**

An amount of \$4.3 million is appropriated to implement Chapter 262, Laws of 1997, Partial Veto (ESHB 2042) to establish a second grade reading test and for grants to provide training for K-3 teachers in reading instruction.

**Levy Equalization Assistance to Districts with High Property Tax Rates and Additional Levy Authority**

An amount of \$2.41 million is appropriated to implement Chapter 259, Laws of 1997 (ESHB 2069 - School Levies). This bill affects the 25 percent of school districts that require the highest property tax rates for a 10 percent maintenance and operation levy. Starting in calendar year 1999, these districts will be eligible to receive levy equalization

matching funds for up to a 12 percent levy. Other districts eligible for levy equalization will be eligible for matching funds up to a 10 percent levy. The bill also extends the temporary levy lid increase which expires in 1997 by providing an additional 2 percent in levy authority in calendar year 1998 and 4 percent in calendar year 1999 and thereafter. The additional levy authority will allow districts to collect an estimated \$36 million in calendar year 1998 and \$83 million in 1999.

**Magnet Schools and Complex Needs Programs**

An amount of \$1.6 million is appropriated for the Magnet School program which provides grants to five school districts for programs to encourage racial integration of schools through voluntary transfers (the 1995-97 amount was \$3.1 million). An amount of \$4.3 million is appropriated for the complex needs program which provides grants to 17 school districts based on 1989-91 data showing high incidences of: poor students; students with disabilities; and non-English speaking students.

**Alternative Education Opportunities for Students who have Dropped Out or Been Expelled**

An amount of \$1.0 million is appropriated to provide start-up grants to school districts for alternative educational approaches to help drop out and expelled students gain educational skills necessary for their re-entry into school. Enrollments in these programs generate state fund allocations in the same manner as regular district enrollments. This is the source of funds to be used for educational programming and to continue such programs in the future. The start-up funds and portions of regular apportionments may be used for educational services contracted out as specified in Chapter 265, Laws of 1997 (ESHB 1581 - Disruptive Students/Offenders).

**Information System Support**

An amount of \$500,000 is appropriated to the Office of the Superintendent of Public Instruction to continue enhancement of information processing. The purpose of this appropriation is to enable the Superintendent to maintain a public database of school information, replace paper reports and publications with electronic media, enhance electronic data collection and distribution systems, and communicate more effectively with schools and the public. The data system is to have suitable safeguards of student confidentiality.

**Student Teacher Centers**

An amount of \$275,000 is appropriated to increase funding for Student Teacher Centers. These centers were established in 1987 to give rural districts the opportunity to host, mentor, and recruit student teachers. Total funding for this program increases from \$225,000 in 1995-97 to \$500,000 in 1997-99.

**Education Centers**

Education centers are educational operations independent of school districts established to provide learning opportunities to students who have dropped out of school. Currently, there are 12 centers and \$100,000 is appropriated to fund a similar center in southwest Washington. In addition, \$100,000 is appropriated to stabilize funding for education centers currently receiving less than \$100,000 per biennium.

**Highly Capable Program Increase**

An amount of \$2.9 million is appropriated to increase the number of students eligible for state funding in the highly capable program from 1.5 percent to 2.0 percent of each district's K-12 enrollment.



## **K-12 Savings Initiatives**

### **Average Salary Calculation**

As directed in Chapter 141, Laws of 1997 (SB 5395 - Certified Staff Salaries), the calculation of average salaries used for state basic education funding of regular education and special education programs is changed to include actual salary costs in both programs, rather than just regular education. Currently, some districts are overfunded and some underfunded for their state special education salary costs, depending on the actual education and experience of their special education staffs. This legislation is expected to produce \$12.7 million in savings to the state general fund.

**Modification of the Timelines for Education Reform Statewide Assessments**  
Chapter 268, Laws of 1997 (ESB 6072 - Student Assessment System) provides the Commission on Student Learning with modified timelines for the development of the statewide assessment system for the 4th, 7th, and 10th grades by delaying development of certain assessments. The modification in timelines reduces the cost of assessment development by \$11.35 million in the 1997-99 biennium and increases the cost for the subsequent biennium.

### **Truancy Boards**

An amount of \$2.0 million to support local truancy board operations as provided for the 1996-97 school year is not continued. Truancy boards were established under the Becca bills of 1995 and 1996 and were intended to divert students from the court process. These boards duplicated the efforts of schools and the courts.

### **ESD Special Education Coordinators**

State funding of \$1.74 million for special education coordinators is eliminated. With increased federal funds for special education

are being increased so districts will have the resources to choose whether to support regional staff or purchase assistance in other manners.

## **Higher Education**

### **Enrollment Increases**

The amount of \$39.8 million from the state general fund is provided to address increasing enrollment demand. Access to public higher education is expanded to accommodate an additional 6,390 students: 2,190 in the baccalaureate institutions and 4,200 students in the Community and Technical College System (CTCS). Full funding for new enrollments is provided as determined by the Higher Education Coordinating Board. New students at the branch campuses were funded at the rate appropriate for upper division students.

### **Support for Dislocated Workers**

Workforce training enrollment opportunities and financial aid assistance is maintained for up to 7,200 dislocated workers at the community and technical colleges. This support is provided through \$31.3 million of the state general fund and \$26.3 million from the Employment and Training Trust Fund. The general fund resources are provided as a phased replacement of funding from the Employment and Training Trust Fund revenue source which expires on January 1, 1998.

### **Student Financial Aid**

The sum of \$33.2 million from the state general fund is provided to increase student financial aid in the State Need Grant, State Work Study, Educational Opportunity Grant, National Guard Scholarships, Washington Scholars, Award for Vocational Excellence, Work-based Training, and other programs. Additionally, \$2.2 million of the state general fund is provided to replace funding

from the Health Services Account in support of Health Professions Scholarships.

**Accountability Measures**

Two percent of the baccalaureate institutions non-instructional funding (\$10.7 million state general fund) will be held in reserve and may be released by the Higher Education Coordinating Board upon certification that institutions have prepared plans and have met performance goals for student progression and retention, time to degree, faculty productivity, and one additional measure to be developed for each institution. In a similar fashion, \$6.8 million of the Community and Technical Colleges general fund is to be held by the State Board for Community and Technical Colleges until the two-year institutions meet selected performance goals.

**Tuition Increases**

Under Chapter 403, Laws of 1997 (E2SSB 5927), tuition rates are increased by 4.0 percent in the 1997-98 academic year and an additional 4.0 percent in the 1998-99 academic year. The resulting additional local tuition funds may be used for general educational enhancements or for specially provided optional salary increases described below. Exceptions to the general increase provided at the University of Washington are: 8.3 percent increase in each year for non-resident undergraduates; 7.3 percent in each year for resident law students; and 6.7 percent in each year for non-resident law students. Of the tuition revenue generated by these special increases in excess of a 4 percent tuition rate increase, 10 percent of those additional revenues shall be used to assist needy low- and middle-income resident students.

**Cost-of-Living Increase**

Higher education classified employees will receive a cost-of-living increase of 3 percent

effective July 1, 1997. Higher education faculty, exempt staff, and other special salary classifications will receive an average 3 percent cost-of-living increase effective July 1, 1997. The flexibility provided for these classifications is to provide for locally determined, merit-based salary increases.

**Faculty Retention Pool**

The state's four-year institutions will receive \$4.0 million state general fund to recruit and retain faculty. In addition, the four-year institutions are given the optional authority to provide an average 1 percent pay increase in 1997 and an additional 2 percent pay increase in 1998 to faculty and exempt staff. Funding for these optional increases is available either through the authorized tuition rate increases or through locally identified efficiencies. These pay increases are in addition to the general cost-of-living increase.

**Community College Part-Time Faculty Pay Disparity**

The Community and Technical Colleges are instructed to address the part-time faculty pay disparity by applying up to \$7.7 million of the authorized tuition rate increases as salary enhancements. The amount each college applies to pay disparity issues will be based on local situations, but a minimum of \$2.9 million must be expended for part-time salaries or hiring additional full-time faculty. In addition, the State Board is authorized to use non-restricted funds from the base allocation to equalize pay disparities for full-time faculty among the various community and technical colleges.

**Replacement of Health Services Account**

In addition to the general fund support of the Health Professions Scholarship described above, \$3.3 million of the state general fund was provided for training of primary care providers and \$4.9 million of the state general fund was provided for health benefits

for graduate teaching and research assistants. This funding is provided to maintain these

programs and benefits in the face of a shortfall in the Health Services Account.

### **Other Education**

#### **State School for the Blind**

The amount of \$70,000 from the state general fund is provided for a Director of Outreach to coordinate outreach services to blind children in public schools throughout the state.

#### **State School for the Deaf**

The amount of \$40,000 from the state general fund is provided to operate the Extended School Year program which offers ongoing educational programs during the summer.

#### **Washington State Library**

The amount of \$198,000 from the state general fund is provided in the first fiscal year to complete and evaluate the government information locator service pilot project. The pilot received funding in the 1996 supplemental budget.

#### **Washington State Historical Society**

The amount of \$432,400 from the state general fund is provided for exhibit and educational programming for the new Washington State History Museum.

#### **Eastern Washington State Historical Society**

The amount of \$275,000 from the state general fund is provided for new exhibit design and planning at the Cheney Cowles Museum.

### **Special Appropriations**

#### **Across-the-Board Salary Increases**

Funding has been provided for a 3 percent salary increase for state and higher education employees beginning July 1, 1997 and for K-12 employees beginning September 1, 1997. The budget provides \$296.8 million from the state general fund and \$66.5 million from other funds for the salary increases.

#### **Personnel Resource Board Salary Adjustments**

Amounts of \$15.9 million from the state general fund and \$8.9 million from other funds are provided for additional state employee salary increases. Under Chapter 319, Laws of 1996 (SSB 6767), the Legislature identified several higher-priority compensation issues for classified personnel, including salary inequities, recruitment and retention, and compensation for increased duties and responsibilities. Of the 23 classification titles (10,940 positions), the first 10 classification titles (6,822 positions) on the Washington Personnel Resource Board's priority list will receive salary adjustments starting July 1, 1997. The remaining classification titles will receive adjustments beginning July 1, 1998.

#### **Other Salary Increases**

Amounts of \$500,000 from the state general fund and \$500,000 from other funds are provided to fund a portion of the second phase of the 1994 Assistant Attorney General compensation study.

#### **Employee Health Benefits**

Amounts of \$33 million from the state general fund and \$7 million from other funds are provided for health care benefits for state, higher education, and K-12 employees. The monthly health care benefit rates, \$317.34 for fiscal year 1998 and \$335.75 for fiscal year 1999, were calculated using

## **1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

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medical inflation rates of 4.4 percent and 4.6 percent, respectively and assumed full utilization of the surplus in the Health Care Authority Insurance Fund.

### **Public Employees' and Retirees' Insurance Account**

This account has been increased by \$1.0 million to allow for a contingency reserve.

### **Office of Financial Management**

In the initial 1997-99 budget (Chapter 149, Laws of 1997, Partial Veto - SSB 6062), the Legislature appropriated \$14.47 million (\$5.34 million state general fund and \$9.13 million in other funds) to address the Year 2000 computer conversion problems. In Chapter 454, Laws of 1997, Partial Veto (ESHB 2259), this funding was shifted to the supplemental budget and the appropriations contained in Chapter 149, Laws of 1997, Partial Veto (SSB 6062) were repealed. However, the Governor vetoed this repeal (thereby restoring the 1997-99 appropriations) and also vetoed all of the dedicated account appropriations contained in the supplemental budget. These two vetoes, in combination, have the effect of returning the dedicated account appropriations to the 1997-99 budget, while creating a double appropriation of the state general fund portion. The Governor stated his intent to place the 1997-99 state general fund appropriation in reserve status. As a result of these actions, Year 2000 costs will be funded by a 1995-97 supplemental appropriation of \$5.34 million from the state general fund and by 1997-99 appropriations of \$9.13 million from the other (dedicated) accounts.

The Legislature appropriated approximately \$7 million from various funds in the initial operating budget (Chapter 149, Laws of 1997, Partial Veto - SSB 6062) for regulatory reform activities. The Governor vetoed the proviso attached to the funding.

At the time the budget passed, the final contents of Chapter 409, Laws of 1997, Partial Veto (E2SHB 1032), the most substantial regulatory reform legislation, were not determined. The final version of Chapter 409, Laws of 1997, Partial Veto (E2SHB 1032) which passed the Legislature did not include several provisions with major fiscal impacts, such as the requirements for the review of existing rules and the development of regulatory impact notes. The changes made in the final version of Chapter 409, Laws of 1997, Partial Veto (E2SHB 1032) resulted in the Legislature repealing all funding for regulatory reform in the second operating budget bill (Chapter 454, Laws of 1997, Partial Veto - ESHB 2259). However, the Governor vetoed the repealer and declared his intent to keep the funds for allocation to agencies to implement the regulatory reform legislation.

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**TOTAL STATE**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
Legislative	105,076	0	105,076	112,569	0	112,569
Judicial	55,600	11	55,611	111,119	15	111,134
Governmental Operations	344,699	32,031	376,730	1,998,433	94,112	2,092,545
Dept of Social & Health Services	4,516,197	18,642	4,534,839	9,872,624	-9,043	9,863,581
Other Human Services	878,349	3,034	881,383	2,411,471	7,160	2,418,631
Natural Resources	206,144	14,645	220,789	833,657	22,204	855,861
Transportation	27,978	1,089	29,067	1,292,457	17,456	1,309,913
Total Education	10,330,327	41,981	10,372,308	13,885,115	40,909	13,926,024
Public Schools	8,316,882	38,632	8,355,514	9,039,050	38,528	9,077,578
Higher Education	1,966,658	3,349	1,970,007	4,756,544	2,374	4,758,918
Other Education	46,787	0	46,787	89,521	7	89,528
Special Appropriations	1,146,957	-11,433	1,135,524	1,608,460	-70,200	1,538,260
<b>Statewide Total</b>	<b>17,611,327</b>	<b>100,000</b>	<b>17,711,327</b>	<b>32,125,905</b>	<b>102,613</b>	<b>32,228,518</b>

*Note: Amounts shown contain all legislative operating appropriations: Chapter 454, Laws of 1997, Partial Veto -- ESHB 2259 Omnibus Operating Budget (Part 2); and Chapter 457, Laws of 1997 -- SSB 6061 Transportation Budget.*

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**LEGISLATIVE AND JUDICIAL**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
House of Representatives	47,547	0	47,547	47,562	0	47,562
Senate	36,695	0	36,695	36,710	0	36,710
Jt Leg Audit & Review Committee	2,928	0	2,928	2,928	0	2,928
Legislative Transportation Comm	0	0	0	2,778	0	2,778
WA Performance Partnership Council	250	0	250	250	0	250
LEAP Committee	2,324	0	2,324	2,734	0	2,734
Office of the State Actuary	0	0	0	1,573	0	1,573
Joint Legislative Systems Committee	8,900	0	8,900	8,940	0	8,940
Statute Law Committee	6,432	0	6,432	9,094	0	9,094
<b>Total Legislative</b>	<b>105,076</b>	<b>0</b>	<b>105,076</b>	<b>112,569</b>	<b>0</b>	<b>112,569</b>
Supreme Court	8,955	0	8,955	8,955	0	8,955
State Law Library	3,204	11	3,215	3,204	11	3,215
Court of Appeals	18,550	0	18,550	18,550	0	18,550
Commission on Judicial Conduct	1,401	0	1,401	1,401	0	1,401
Office of Administrator for Courts	23,490	0	23,490	73,204	4	73,208
Office of Public Defense	0	0	0	5,805	0	5,805
<b>Total Judicial</b>	<b>55,600</b>	<b>11</b>	<b>55,611</b>	<b>111,119</b>	<b>15</b>	<b>111,134</b>
<b>Total Legislative and Judicial</b>	<b>160,676</b>	<b>11</b>	<b>160,687</b>	<b>223,688</b>	<b>15</b>	<b>223,703</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**GOVERNMENTAL OPERATIONS**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev.1995-97
Office of the Governor	8,655	0	8,655	8,880	0	8,880
Office of the Lieutenant Governor	485	33	518	485	33	518
Public Disclosure Commission	2,176	132	2,308	2,177	132	2,309
Office of the Secretary of State	16,849	190	17,039	23,489	190	23,679
Governor's Office of Indian Affairs	337	0	337	337	0	337
Asian/Pacific-American Affrs	361	0	361	361	0	361
Office of the State Treasurer	0	0	0	10,698	0	10,698
Office of the State Auditor	508	0	508	37,208	-363	36,845
Comm Salaries for Elected Officials	65	0	65	65	0	65
Office of the Attorney General	6,503	0	6,503	131,355	0	131,355
Dept of Financial Institutions	0	0	0	13,764	0	13,764
Dept Community, Trade, & Econ Dev	104,313	292	104,605	297,111	501	297,612
Economic & Revenue Forecast Council	983	0	983	983	0	983
Office of Financial Management	18,870	0	18,870	42,218	1,433	43,651
Office of Administrative Hearings	0	0	0	14,532	0	14,532
Department of Personnel	720	0	720	29,820	0	29,820
Deferred Compensation Committee	0	0	0	1,614	0	1,614
State Lottery Commission	0	0	0	465,718	0	465,718
Washington State Gambling Comm	1,000	0	1,000	19,914	0	19,914
WA State Comm on Hispanic Affairs	405	0	405	405	0	405
African-American Affairs Comm	301	0	301	301	0	301
Personnel Appeals Board	0	0	0	1,593	0	1,593
Department of Retirement Systems	0	0	0	32,541	0	32,541
State Investment Board	0	0	0	8,480	0	8,480
Department of Revenue	125,712	0	125,712	133,831	0	133,831
Board of Tax Appeals	1,989	0	1,989	1,989	0	1,989
Municipal Research Council	3,230	0	3,230	3,230	0	3,230
Minority & Women's Business Enterp	0	0	0	2,121	0	2,121
Dept of General Administration	3,067	0	3,067	97,737	0	97,737
Department of Information Services	27,000	12,178	39,178	222,714	55,196	277,910
Office of Insurance Commissioner	0	0	0	20,230	105	20,335
State Board of Accountancy	0	0	0	1,293	0	1,293
Forensic Investigation Council	0	0	0	12	0	12
Washington Horse Racing Commission	0	0	0	4,733	0	4,733
WA State Liquor Control Board	0	0	0	113,604	582	114,186
Utilities and Transportation Comm	0	0	0	26,224	0	26,224
Board for Volunteer Firefighters	0	0	0	442	0	442
Military Department	15,191	19,206	34,397	194,639	36,303	230,942
Public Employment Relations Comm	3,314	0	3,314	3,314	0	3,314
Growth Management Hearings Board	2,665	0	2,665	2,665	0	2,665
State Convention and Trade Center	0	0	0	25,606	0	25,606
<b>Total Governmental Operations</b>	<b>344,699</b>	<b>32,031</b>	<b>376,730</b>	<b>1,998,433</b>	<b>94,112</b>	<b>2,092,545</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget  
1995-97 Expenditure Authority**

**HUMAN SERVICES**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
<b>Dept of Social &amp; Health Services</b>	<b>4,516,197</b>	<b>18,642</b>	<b>4,534,839</b>	<b>9,872,624</b>	<b>-9,043</b>	<b>9,863,581</b>
WA State Health Care Authority	6,806	0	6,806	325,085	-4,000	321,085
Human Rights Commission	3,917	0	3,917	5,663	0	5,663
Bd of Industrial Insurance Appeals	0	0	0	19,633	0	19,633
Criminal Justice Training Comm	0	0	0	11,418	536	11,954
Department of Labor and Industries	10,981	0	10,981	365,878	1,093	366,971
Indeterminate Sentence Review Board	2,285	0	2,285	2,285	0	2,285
WA Health Care Policy Board	0	0	0	4,339	-316	4,023
Department of Health	88,967	1,273	90,240	442,397	6,073	448,470
Department of Veterans' Affairs	19,996	-1,490	18,506	50,640	23	50,663
Department of Corrections	735,433	3,251	738,684	741,465	3,251	744,716
Dept of Services for the Blind	2,589	0	2,589	14,178	0	14,178
Sentencing Guidelines Commission	1,262	0	1,262	1,262	0	1,262
Department of Employment Security	<u>6,113</u>	<u>0</u>	<u>6,113</u>	<u>427,228</u>	<u>500</u>	<u>427,728</u>
<b>Total Other Human Services</b>	<b>878,349</b>	<b>3,034</b>	<b>881,383</b>	<b>2,411,471</b>	<b>7,160</b>	<b>2,418,631</b>
<b>Total Human Services</b>	<b>5,394,546</b>	<b>21,676</b>	<b>5,416,222</b>	<b>12,284,095</b>	<b>-1,883</b>	<b>12,282,212</b>



**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**DEPT OF SOCIAL & HEALTH SERVICES**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
Children and Family Services	319,913	6,783	326,696	598,411	8,835	607,246
Juvenile Rehabilitation	119,155	11,896	131,051	184,552	-7,962	176,590
Mental Health	448,668	-3,013	445,655	871,688	26,435	898,123
Developmental Disabilities	378,548	3,261	381,809	712,278	5,714	717,992
Long-Term Care Services	764,349	-8,274	756,075	1,544,737	-23,675	1,521,062
Economic Services	990,799	-5,561	985,238	1,828,963	-28,005	1,800,958
Alcohol & Substance Abuse	20,189	1,051	21,240	170,652	305	170,957
Medical Assistance Payments	1,327,503	10,385	1,337,888	3,508,623	5,783	3,514,406
Vocational Rehabilitation	15,587	7	15,594	91,671	33	91,704
Administration/Support Svcs	51,867	180	52,047	93,640	307	93,947
Child Support Services	37,839	477	38,316	209,348	1,737	211,085
Payments to Other Agencies	41,780	1,450	43,230	58,061	1,450	59,511
<b>Total DSHS</b>	<b>4,516,197</b>	<b>18,642</b>	<b>4,534,839</b>	<b>9,872,624</b>	<b>-9,043</b>	<b>9,863,581</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

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**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**NATURAL RESOURCES**

(Dollars in Thousands)

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	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
Washington State Energy Office	508	0	508	18,543	0	18,543
Columbia River Gorge Commission	577	0	577	1,101	0	1,101
Department of Ecology	43,698	372	44,070	240,089	1,172	241,261
WA Pollution Liab Insurance Program	0	0	0	1,342	0	1,342
State Parks and Recreation Comm	36,347	3,400	39,747	66,703	1,000	67,703
Interagency Comm for Outdoor Rec	0	0	0	3,219	0	3,219
Environmental Hearings Office	1,428	25	1,453	1,428	25	1,453
State Conservation Commission	1,692	0	1,692	2,013	0	2,013
Office of Marine Safety	0	0	0	1,328	0	1,328
Dept of Fish and Wildlife	66,888	2,318	69,206	200,365	11,302	211,667
Department of Natural Resources	40,749	8,315	49,064	224,928	8,315	233,243
Department of Agriculture	<u>14,257</u>	<u>215</u>	<u>14,472</u>	<u>72,598</u>	<u>390</u>	<u>72,988</u>
<b>Total Natural Resources</b>	<b>206,144</b>	<b>14,645</b>	<b>220,789</b>	<b>833,657</b>	<b>22,204</b>	<b>855,861</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**TRANSPORTATION**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
Board of Pilotage Commissioners	0	0	0	260	0	260
Washington State Patrol	19,243	1,089	20,332	251,460	1,770	253,230
WA Traffic Safety Commission	0	0	0	6,688	0	6,688
Department of Licensing	8,735	0	8,735	191,205	219	191,424
Department of Transportation	0	0	0	841,735	15,467	857,202
Marine Employees' Commission	0	0	0	345	0	345
Transportation Commission	0	0	0	764	0	764
<b>Total Transportation</b>	<b>27,978</b>	<b>1,089</b>	<b>29,067</b>	<b>1,292,457</b>	<b>17,456</b>	<b>1,309,913</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**EDUCATION**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
<b>Public Schools</b>	<b>8,316,882</b>	<b>38,632</b>	<b>8,355,514</b>	<b>9,039,050</b>	<b>38,528</b>	<b>9,077,578</b>
Higher Education Coordinating Board	151,907	5	151,912	158,829	5	158,834
University of Washington	526,995	710	527,705	2,224,901	710	2,225,611
Washington State University	309,682	476	310,158	668,882	476	669,358
Eastern Washington University	75,744	-226	75,518	143,119	-1,201	141,918
Central Washington University	69,886	96	69,982	123,791	96	123,887
The Evergreen State College	37,761	60	37,821	65,867	60	65,927
Joint Center for Higher Education	2,438	0	2,438	9,563	0	9,563
Western Washington University	88,242	118	88,360	163,781	118	163,899
Community/Technical College System	<u>704,003</u>	<u>2,110</u>	<u>706,113</u>	<u>1,197,811</u>	<u>2,110</u>	<u>1,199,921</u>
<b>Total Higher Education</b>	<b>1,966,658</b>	<b>3,349</b>	<b>1,970,007</b>	<b>4,756,544</b>	<b>2,374</b>	<b>4,758,918</b>
State School for the Blind	7,010	0	7,010	7,017	0	7,017
State School for the Deaf	12,547	0	12,547	12,562	0	12,562
Work Force Trng & Educ Coord Board	3,268	0	3,268	38,405	0	38,405
State Library	14,351	0	14,351	19,203	0	19,203
Washington State Arts Commission	4,233	0	4,233	5,168	7	5,175
Washington State Historical Society	4,187	0	4,187	5,975	0	5,975
East Wash State Historical Society	<u>1,191</u>	<u>0</u>	<u>1,191</u>	<u>1,191</u>	<u>0</u>	<u>1,191</u>
<b>Total Other Education</b>	<b>46,787</b>	<b>0</b>	<b>46,787</b>	<b>89,521</b>	<b>7</b>	<b>89,528</b>
<b>Total Education</b>	<b>10,330,327</b>	<b>41,981</b>	<b>10,372,308</b>	<b>13,885,115</b>	<b>40,909</b>	<b>13,926,024</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**PUBLIC SCHOOLS**

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	1995-97	1997 Supp	Rev 1995-97	1995-97	1997 Supp	Rev 1995-97
OSPI & Statewide Programs	56,110	2,325	58,435	104,352	2,325	106,677
General Apportionment	6,428,005	-8,214	6,419,791	6,428,005	-8,214	6,419,791
Pupil Transportation	328,753	-1,729	327,024	328,753	-1,729	327,024
School Food Services	6,000	0	6,000	269,619	0	269,619
Special Education	747,920	-13,038	734,882	846,604	-13,038	833,566
Traffic Safety Education	0	0	0	16,928	-104	16,824
Educational Service Districts	8,901	0	8,901	8,901	0	8,901
Levy Equalization	159,677	25	159,702	159,677	25	159,702
Elementary/Secondary School Improv	0	0	0	222,376	0	222,376
Indian Education	0	0	0	55	0	55
Institutional Education	33,726	-1,693	32,033	42,274	-1,693	40,581
Ed of Highly Capable Students	8,454	-37	8,417	8,454	-37	8,417
Education Reform	35,966	0	35,966	48,466	0	48,466
Federal Encumbrances	0	0	0	51,216	0	51,216
Transitional Bilingual Instruction	54,810	-211	54,599	54,810	-211	54,599
Learning Assistance Program (LAP)	114,627	-759	113,868	114,627	-759	113,868
Block Grants	114,969	-47	114,922	114,969	-47	114,922
Compensation Adjustments	218,964	-369	218,595	218,964	-369	218,595
Common School Construction	0	62,379	62,379	0	62,379	62,379
<b>Total Public Schools</b>	<b>8,316,882</b>	<b>38,632</b>	<b>8,355,514</b>	<b>9,039,050</b>	<b>38,528</b>	<b>9,077,578</b>

**1997-99 State Operating Budget (SSB 6062/ESHB 2259)**

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**Washington State Operating Budget**

**1995-97 Expenditure Authority**

**SPECIAL APPROPRIATIONS**

(Dollars in Thousands)

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	General Fund-State			Total All Funds		
	<u>1995-97</u>	<u>1997 Supp</u>	<u>Rev 1995-97</u>	<u>1995-97</u>	<u>1997 Supp</u>	<u>Rev 1995-97</u>
Bond Retirement and Interest	861,672	-18,006	843,666	1,216,545	-76,775	1,139,770
Special Approps to the Governor	7,261	5,340	12,601	13,017	5,340	18,357
Sundry Claims	162	283	445	178	285	463
State Employee Compensation Adjust	88,262	0	88,262	189,120	0	189,120
Agency Loans	0	950	950	0	950	950
Contributions to Retirement Systems	<u>189,600</u>	<u>0</u>	<u>189,600</u>	<u>189,600</u>	<u>0</u>	<u>189,600</u>
<b>Total Special Appropriations</b>	<b>1,146,957</b>	<b>-11,433</b>	<b>1,135,524</b>	<b>1,608,460</b>	<b>-70,200</b>	<b>1,538,260</b>

**1997-99 Capital Budget Overview**

The 1997-99 Capital budget passed as Engrossed Substitute Senate Bill 6063 (ESSB 6063) and was codified as Chapter 235, Laws 1997. Governor Locke's partial veto of the bill eliminated three sections and reduced the overall appropriation by \$10 million in state bond funds. ESSB 6063 was amended by EHB 2255 (Chapter 455, Laws 1997) adding \$10 million in state bond funds to the overall budgeted expenditure level for 1997-99. The legislation authorizing the bonds to finance the bonded portion of the budget passed as Engrossed Substitute Senate Bill 6064 and was codified as Chapter 456, Laws of 1997.

In addition to appropriations for capital projects the budget authorizes state agencies to enter into financial contracts for acquisition of land and facilities and to enter into long-term lease agreements. The 17 authorized projects total over \$53 million.

ESSB 6063	<u>Total Funds</u>	<u>Debt Limit Bonds</u>
1997-99 new appropriations	1,884,125,691	906,280,779
1997 supplemental budget	14,823,093	5,690,107
Subtotal new approps ESSB 6063	1,898,948,784	911,970,886
Reappropriation Reductions in ESSB 6063	(14,560,940)	(14,560,940)
<b>Total net new appropriations ESSB 6063</b>	<b>1,884,387,844</b>	<b>897,409,946</b>
Governor's partial veto of ESSB 6063	(10,000,000)	(10,000,000)
EHB 2255 (amending ESSB 6063)	10,000,000	10,000,000

Of the \$1.88 billion spending plan, the 1997-99 biennial budget contains \$906 million of appropriations for new projects which are supported by state bonds subject to the statutory 7 percent debt limit. Principle and interest payments on debt limit bonds will be paid from the state general fund except for the debt attributable to \$1.6 million in bonds which will be paid from the Public Safety and Education Account.

\$44.3 million in new appropriation authority is supported by bonds which are exempt from the state debt limit. The debt service attributable to these exempt bonds will be paid from the University of Washington federal grant funds.

The remaining appropriations of \$933 million are supported by various cash accounts including: Common School Construction Fund (\$277 million); the Public Works Trust Fund (\$185 million); the state Water Quality Account (\$86 million); state Water Pollution Control Account (\$57 million); the Local Toxics Control Account (\$43 million); and \$132 million appropriation of federal funds distributed among several accounts.

## **1997 Supplemental Capital Budget**

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### **1997 Supplemental Capital Budget (1995-97 Biennium) Legislative Overview**

The 1997 supplemental appropriations to the 1995-97 biennium can be found in Part 7 of ESSB 6063 (Chapter 235, Laws 1997). The bill contains an emergency clause which allows the expenditure adjustments to take place before the end of the 1995-97 biennium. Reappropriations are provided for these projects in the 1997-99 budget so that activity may proceed across the biennial boundary.

The project amounts are listed at the end of the comparison spreadsheet. The total additional state bond amount that was added in the 1997 supplemental budget was \$10.7 million.



**1997-99 Transportation Budget — ESSB 6061**  
**Chapter 457, Laws of 1997 PV**  
(Dollars in Thousands)

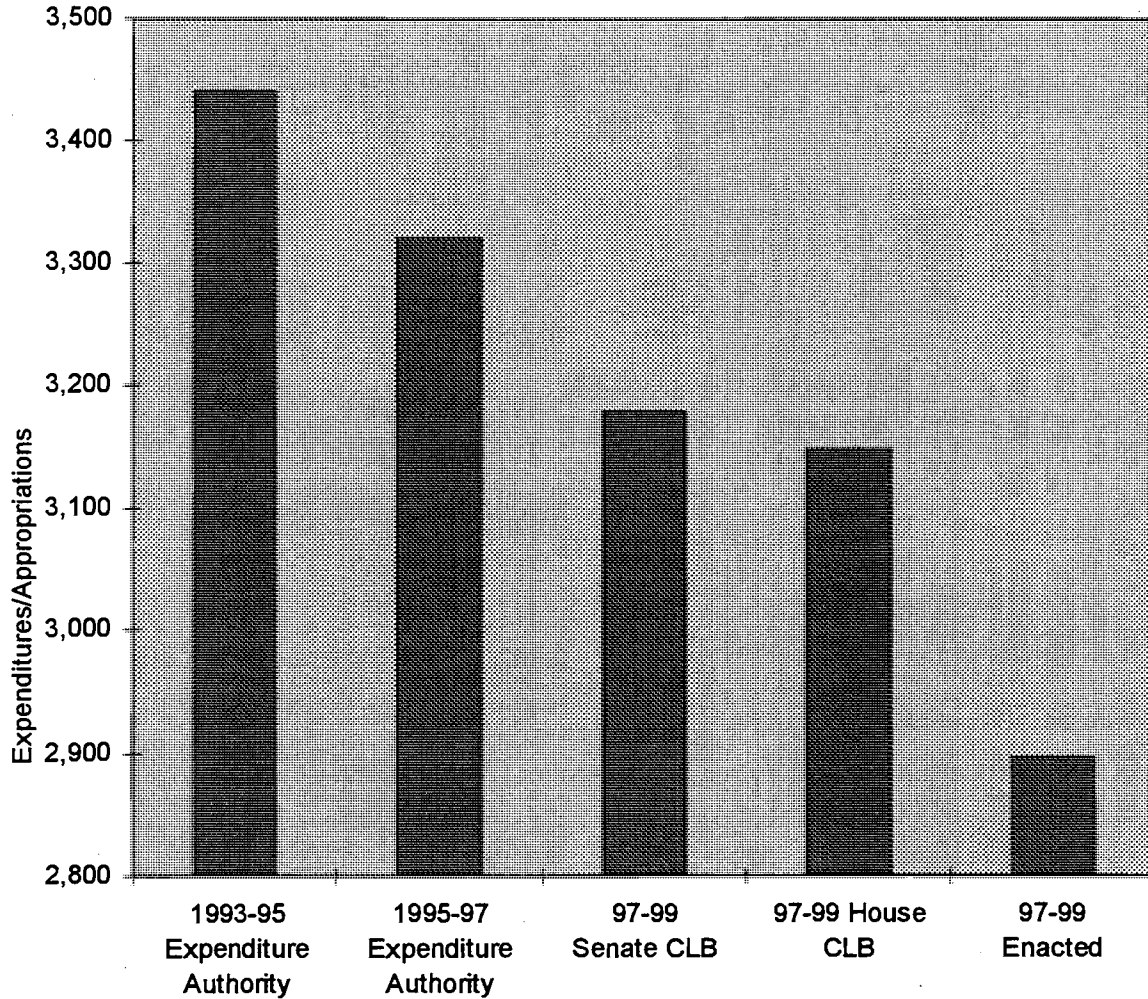
**TOTAL APPROPRIATED FUNDS**

	<b>1995-97</b>	<b>1997-99</b>
	<b>Estimated</b>	<b>Enacted</b>
	<b>Expenditures</b>	
Joint Legislative Audit and Review Committee	\$ 0	\$ 1,500
Legislative Transportation Committee	\$ 2,778	\$ 3,022
Legislative Evaluation and Accountability Program	\$ 410	\$ 420
Joint Legislative Systems Committee	\$ 40	\$ 111
Special Appropriations to the Governor	\$ 3,965	\$ 2,000
Office of the State Treasurer	\$ 44	\$ 0
Dept. of Community, Trade, and Economic Development	\$ 251	\$ 252
Office of Financial Management	\$ 110	\$ 116
Board of Pilotage Commissioners	\$ 260	\$ 275
Utilities and Transportation Commission	\$ 222	\$ 222
Washington Traffic Safety Commission	\$ 6,688	\$ 6,657
County Road Administration Board	\$ 85,424	\$ 87,268
Transportation Improvement Board	\$ 241,855	\$ 221,031
Marine Employees' Commission	\$ 345	\$ 354
Transportation Commission	\$ 764	\$ 804
Department of Ecology	\$ 2,704	\$ 0
State Parks and Recreation Commission	\$ 1,327	\$ 4,431
Office of Marine Safety	\$ 1,078	\$ 0
Department of Agriculture	\$ 300	\$ 304
Washington State Patrol	\$ 222,958	\$ 251,035
Department of Licensing	\$ 161,002	\$ 140,893
Department of Transportation	\$ 2,587,641	\$ 2,175,348
<b>STATEWIDE TOTAL</b>	<b>\$ 3,320,166</b>	<b>\$ 2,896,043</b>

**1997-99 Transportation Budget (ESSB 6061)**

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**1997-99 Transportation Budget  
Current Law Budget**



\* Excludes \$271.1 million of federal and local appropriation with the implementation of HB 1010.

**Transportation Budget Comparisons--ESSB 6061**  
**Chapter 457, Laws of 1997 PV**  
(Dollars in Millions)

1995-97 Transportation Funding

1995-97 Funding	\$ 3.288 Billion
1997 Supplemental Budget	\$ <u>32</u> Million
Total 1995-97 Funding	\$ 3.320 Billion
<u>1997-99 Budget as Enacted*</u>	\$ 2.896 Billion

\* Excludes \$271.1 million of federal and local appropriation with the implementation of HB 1010.

**1997-99 Transportation Budget Highlights**

**Department of Transportation (WSDOT)**

- Includes funding for critical safety improvement projects.
- Fully funds the highway preservation program and provides funding where needed for aging department facilities.
- Provides essential funding for highway maintenance and traffic operations.
- \$100 million from the general fund was provided for highway improvement projects addressing freight mobility and economic development. This section was vetoed by the Governor.
- Provides funding for the acquisition of the second passenger-only vessel and completion of the second and third Jumbo Mark II vessels.
- Funds additional weekend service on the Fauntleroy-Vashon-Southworth ferry route and provides funding for continuation of Anacortes-Sidney, B.C. ferry service.
- Provides \$42.7 million for intercity passenger rail to complete acquisition of the two Talgo trainsets, add one additional round trip between Seattle and Portland, and begin design and preliminary engineering on King Street Station.
- Replaces the loss of federal freight rail assistance funds with the addition of \$750,000 from the High Capacity Transportation Account.

## **1997-99 Transportation Budget (ESSB 6061)**

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- Funds the Rural Mobility Program at \$2.5 million.
- Provides \$1 million for the Agency Coordinating Council on Transportation to better integrate special needs services and transit services.
- Provides funding for continuation of Freight Mobility Advisory Committee activities including a study of freight mobility issues in eastern and southeastern Washington.
- Requires a thorough evaluation and audit of the transportation programs of the department and other transportation agencies.

### **Washington State Patrol**

- Adds 66 new troopers during the biennium to improve the availability and response level for motorist assistance and traffic enforcement.
- Upgrades the weigh scale at the SeaTac weigh station and moves the SeaTac scale to the Othello weigh station.
- Completes the Microwave Migration Phase 2 (existing sites) and the Yakima District 3 Headquarters Office started in the 1995-97 biennium and provides funding for maintenance of existing facilities. No new capital projects are funded.
- Provides funding for the year 2000 data processing conversion.
- Provides for an equalization salary adjustment of 3 percent on July 1, 1997 and 6 percent on July 1, 1998 for commissioned officers, commercial vehicle enforcement officers, and communication officers. This increase brings the trooper pay levels up to the 50th percentile of other Washington state law enforcement compensation plans. This is in addition to the pay increase in the omnibus operating budget. Total increases may not exceed 12 percent.

### **Department of Licensing**

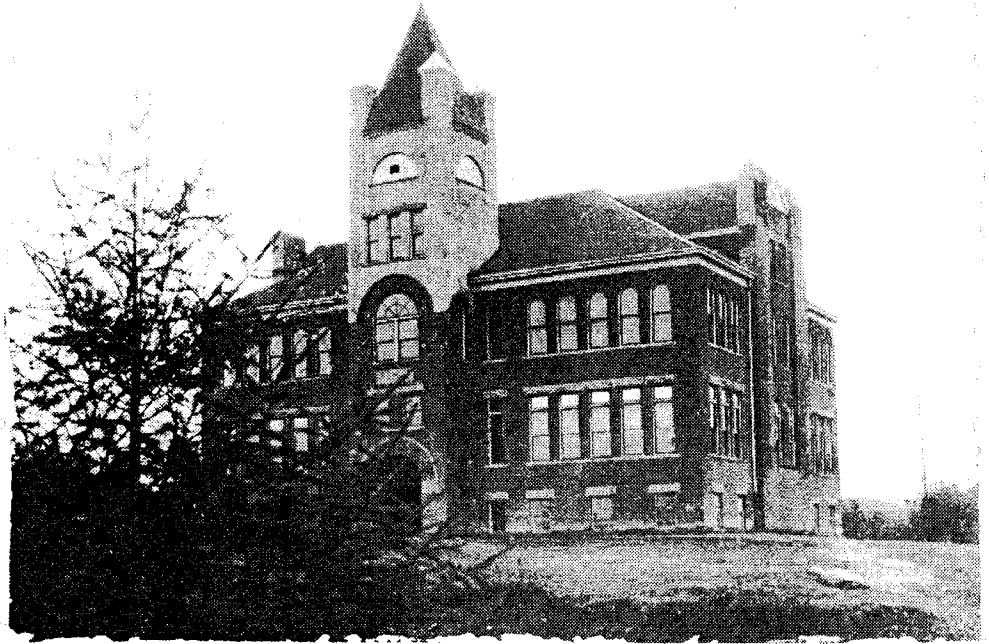
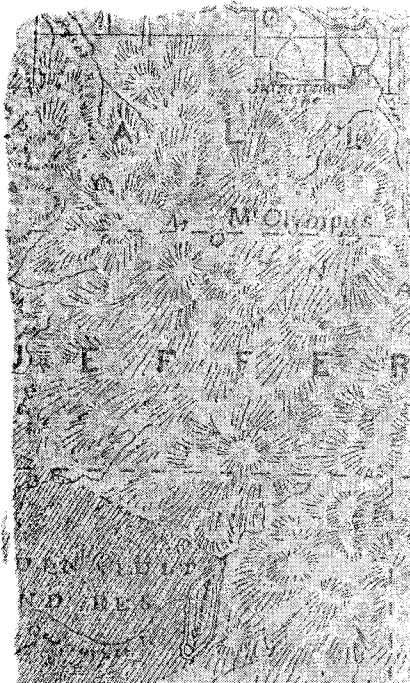
- Funding is provided to cover the increased costs of doing business. Examples include: increase in the price of film, increased costs for plates and tabs, costs of implementing 1996 drivers under the influence of alcohol legislation, mail and postage increases, Department of General Administration motorpool cost increases, etc.
- No funding is provided for the Licensing Application Migration Project (LAMP).
- \$3.3 million is provided for the following information systems activities:

- (1) identifying business objectives and needs relating to technology improvements and integration of the drivers licensing and vehicle title and registrations systems and report to the 1998 Legislature;
  - (2) converting the drivers' licensing software applications to achieve year 2000 compliance;
  - (3) converting the drivers' field network from a uniscope to a frame-relay network;
  - (4) developing an interface between the unisys system and the CRASH system; and
  - (5) operating and maintaining the Highways-Licensing Building network and the drivers' field network.
- Funding is provided to complete and occupy three capital facilities projects in Vancouver, Union Gap and Lacey initiated in the '95-97 biennium. Two previously authorized projects, Wenatchee and West Spokane are not funded. No new capital projects are started.

### **Other Agencies**

- **Legislative Transportation Committee**  
Funding is provided for evaluating TIB\CRAB\TRANSAID Consolidation; MVET Collection Evaluation; and FMAC study in eastern and southeastern Washington.
- **Traffic Safety Commission, Board of Pilotage Commissioners, Utilities and Transportation Commission, Marine Employees Commission, Transportation Commission, Department of Community, Trade, and Economic Development, Office of Financial Management, Department of Agriculture, State Parks and Recreation, operating and legislative agencies except LTC are all funded at current level.**
- **Transportation Improvement Board**  
Provides approximately \$221 million for projects.
- **County Road Administration Board**  
Provides approximately \$87 million for projects.
- **Special Appropriations to the Governor**  
Provides \$2 million for claims prior to 1990.
- **State Parks and Recreation--Capital**  
Provides funding for roadway preservation in six Washington state parks.

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# 1997 *Final Legislative Report*

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*Bill Number to Session Law Table*

*Session Law to Bill Number Table*

*Gubernatorial Appointments*

*Legislative Leadership*

*Standing Committee Assignments*

*In 1854, Governor Isaac Ingalls Stevens and the first territorial legislature of Washington enacted a law providing annual revenues for public schools. From that point, the territory of Washington progressed in leaps and bounds. In the following generation there grew a great system of public schools from primitive beginnings.*

*Above: Washington School, Olympia, about 1889.*

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C 199	L 97		Shoreline management permits . . . . .	SB	5299
C 200	L 97		Carrying firearms . . . . .	SB	5326
C 201	L 97		Towing services/taxation . . . . .	SB	5343
C 202	L 97		Two-way left turn lanes . . . . .	SSB	5541
C 203	L 97	PV	Salespersons/overtime compensation . . . . .	SSB	5569
C 204	L 97	PV	County operations . . . . .	ESB	5600
C 205	L 97		Boxing, martial arts, wrestling . . . . .	SB	5754
C 206	L 97		Port district police officers . . . . .	SB	5871
C 207	L 97		Higher education fiscal flexibility . . . . .	HB	1551
C 208	L 97		Fire fighting technical review . . . . .	HB	1908
C 209	L 97		Aquatic lands exchanges . . . . .	ESHB	1017
C 210	L 97		Nursing home bed conversions . . . . .	SHB	1024
C 211	L 97		Higher education employee tuition . . . . .	SHB	1047
C 212	L 97		Health care insurance reporting . . . . .	ESHB	1064
C 213	L 97		Solid waste permits . . . . .	ESHB	1419
C 214	L 97		Offenses in state parks . . . . .	HB	1615
C 215	L 97		Auto transport companies reporting . . . . .	HB	1802
C 216	L 97		Private residence conveyance . . . . .	HB	1828
C 217	L 97		Real estate brokerage relationships . . . . .	SHB	1955
C 218	L 97		Public water systems . . . . .	E2SHB	1969
C 219	L 97	PV	Personal wireless facilities . . . . .	SHB	2044
C 220	L 97		Stadium/technology financing . . . . .	ESHB	2192
C 221	L 97		Excess compensation/retirement benefits . . . . .	HB	1102
C 222	L 97		High school credit equivalencies . . . . .	HB	1202
C 223	L 97		Death investigations account . . . . .	HB	1269
C 224	L 97		Hearing instruments/tax exemption . . . . .	HB	1588
C 225	L 97		Outdoor burning/storm debris . . . . .	SHB	1726
C 226	L 97		Wildlife illegal possession/killing . . . . .	SHB	1806
C 227	L 97		Plant pest control funds . . . . .	EHB	1832
C 228	L 97		Wine manufacturers' sales . . . . .	HB	1847

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C 229	L 97	PV	Ignition interlocks for DUI	EHB	1940
C 230	L 97	PV	Thermal electric generating facility	SHB	1975
C 231	L 97	PV	Health insurance reform	ESHB	2018
C 232	L 97		Community and technical college employees	SHB	2090
C 233	L 97		Puget Sound crab fishery	SHB	2149
C 234	L 97		Veterans remembrance emblem	HB	2163
C 235	L 97	PV	Capital budget	SSB	6063
C 236	L 97		Medical care lien/subrogation	HB	1162
C 237	L 97		Found property handling cost	SHB	1166
C 238	L 97		Small business B&O credit	SHB	1261
C 239	L 97		Property tax information confidential	SHB	1277
C 240	L 97		DOT lands/sale of materials	HB	1353
C 241	L 97		Department of licensing permits and certificates	HB	1457
C 242	L 97		Pesticides registration	E2SHB	1527
C 243	L 97		Radioactive waste disposal sites	HB	1609
C 244	L 97		Property tax exemptions	SSB	5003
C 245	L 97		RCW technical corrections	SB	5018
C 246	L 97		District court jurisdiction	SB	5151
C 247	L 97		Engineers/land surveyors	SB	5266
C 248	L 97		Accident reports	SSB	5539
C 249	L 97		Foreign terrorism	SB	5811
C 250	L 97		Transportation demand management	SHB	1513
C 251	L 97		Disaster response account	HB	2267
C 252	L 97		Probate	SSB	5110
C 253	L 97		Heavy vehicle lane travel	SSB	5177
C 254	L 97		Postretirement employment	SSB	5218
C 255	L 97		Writs of restitution	SSB	5318
C 256	L 97		Port district formation	SSB	5337
C 257	L 97		Economic finance authority	SSB	5341
C 258	L 97		Financial institutions information	SSB	6022
C 259	L 97		School levies	ESHB	2069
C 260	L 97		School levies	HB	2011
C 261	L 97		Savings incentive account	SSB	6045
C 262	L 97	PV	Reading in primary grades	ESHB	2042
C 263	L 97		Teaching history award	SB	5674
C 264	L 97		Surplus educational property	HB	1367
C 265	L 97		Disruptive students/offenders	EHB	1581
C 266	L 97		School safety	E2SHB	1841
C 267	L 97		School district contracting	SHB	1865
C 268	L 97		Student assessment system	ESB	6072
C 269	L 97		Educational trust fund	HB	1054
C 270	L 97		Uniform disciplinary act complaints	ESHB	1057
C 271	L 97		Dog guide and service animals	SHB	1491
C 272	L 97		Foster parent liaison	E2SHB	2046
C 273	L 97		Higher education parking fees	ESHB	2193
C 274	L 97		Health care policy board eliminated	ESHB	2264

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C 275	L 97	PV	Department of health statutes . . . . .	SSB	5445
C 276	L 97		Diabetes cost reduction act . . . . .	2SSB	5178
C 277	L 97	PV	Nursing facility reimbursement . . . . .	2SSB	5179
C 278	L 97		Certificated employees/probation . . . . .	SB	5340
C 279	L 97		Capitol committee members . . . . .	ESSB	5354
C 280	L 97		Parent/child relationship terminated . . . . .	ESSB	5491
C 281	L 97		Community and technical colleges merger . . . . .	SB	5503
C 282	L 97	PV	Child abuse/neglect information . . . . .	SSB	5511
C 283	L 97		Child victims and witnesses . . . . .	SB	5538
C 284	L 97		Election procedures review . . . . .	ESB	5565
C 285	L 97		Orthotists and prosthetists . . . . .	SSB	5715
C 286	L 97		Indigent veterans' burial . . . . .	SB	5736
C 287	L 97		Supported employment programs . . . . .	SSB	5768
C 288	L 97	PV	Claims against UW . . . . .	ESB	5954
C 289	L 97		Advanced college tuition payments . . . . .	E2SHB	1372
C 290	L 97	PV	Landscape management plans . . . . .	SHB	1985
C 291	L 97		License plate issuance . . . . .	SHB	1008
C 292	L 97	PV	Public works project loans . . . . .	HB	1019
C 293	L 97		Vessel manufacturers and dealers/tax exemption . . . . .	HB	1267
C 294	L 97		Assessed valuation changes . . . . .	HB	1439
C 295	L 97		Habitat/water improvements/tax . . . . .	2SHB	1557
C 296	L 97	PV	Wage garnishment . . . . .	E2SHB	1687
C 297	L 97		Massage practitioners . . . . .	SHB	1875
C 298	L 97		Assembly halls/property tax . . . . .	SB	5229
C 299	L 97		Current use taxation . . . . .	SSB	5230
C 300	L 97		Guaranty association assessment . . . . .	SSB	5334
C 301	L 97		Vehicle tax exemption . . . . .	SB	5353
C 302	L 97		Aircraft parts design/tax . . . . .	SSB	5359
C 303	L 97		Agricultural fees . . . . .	ESB	5514
C 304	L 97		Internet service taxation . . . . .	SSB	5763
C 305	L 97	PV	Child welfare records . . . . .	SSB	5770
C 306	L 97	PV	Carbonated beverage tax . . . . .	SSB	5737
C 307	L 97		Plumbers' advisory board membership . . . . .	SHB	1234
C 308	L 97		State route 35 . . . . .	HB	1316
C 309	L 97		Electricians and installations . . . . .	ESHB	1361
C 310	L 97		Crime victims' compensation . . . . .	2SHB	1392
C 311	L 97		Farm implement salespeople . . . . .	HB	1708
C 312	L 97		Guardian certification . . . . .	ESHB	1771
C 313	L 97		Life insurance illustrations . . . . .	ESHB	1899
C 314	L 97		Contractor registration . . . . .	SHB	1903
C 315	L 97		Real estate claim lien notice . . . . .	SHB	1936
C 316	L 97		Ground water right development . . . . .	ESHB	2013
C 317	L 97		Insurance companies investments . . . . .	SHB	2097
C 318	L 97		Ethics in public service . . . . .	ESHB	2128
C 319	L 97		Indigent civil legal services . . . . .	ESHB	2276
C 320	L 97		Legislators' newsletters . . . . .	SSB	5149

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C 321	L 97	PV	Liquor license schematic . . . . .	SSB	5173
C 322	L 97		Real estate brokers/salesperson . . . . .	SSB	5267
C 323	L 97		Charter use of ferries . . . . .	SB	5361
C 324	L 97		Tax evasion penalties . . . . .	SB	5570
C 325	L 97	PV	Unemployment/workers compensation form . . . . .	SB	5571
C 326	L 97		Medical gas piping installer . . . . .	SSB	5749
C 327	L 97		Workers' compensation agency ratings . . . . .	SSB	5965
C 328	L 97		Electric-assisted bicycles . . . . .	SB	5968
C 329	L 97		Quality awards council . . . . .	SB	5991
C 330	L 97		Workers' compensation performance audit . . . . .	SSB	6030
C 331	L 97	PV	Trauma care services . . . . .	2SSB	5127
C 332	L 97	PV	Sale of nonprofit hospitals . . . . .	SSB	5227
C 333	L 97		Local public health financing . . . . .	HB	1420
C 334	L 97		Respiratory care practitioner . . . . .	SHB	1536
C 335	L 97		Basic health plan eligibility . . . . .	HB	1982
C 336	L 97		Workers' compensation health services . . . . .	SHB	2227
C 337	L 97	PV	Basic health plan . . . . .	SHB	2279
C 338	L 97		Juvenile code revisions . . . . .	E3SHB	3900
C 339	L 97		Child rape/persistent offender . . . . .	SHB	1176
C 340	L 97		Sex offense sentencing . . . . .	HB	1924
C 341	L 97		Juvenile offense jurisdiction . . . . .	HB	1922
C 342	L 97	PV	Mentally ill offenders . . . . .	2SSB	6002
C 343	L 97		Crime victim advocates . . . . .	HB	1589
C 344	L 97		Child abuse/guilt admittance . . . . .	SSB	5512
C 345	L 97		Offender disease disclosure . . . . .	SHB	1605
C 346	L 97		Theft of rental property . . . . .	SHB	2059
C 347	L 97		Spokane superior court judges . . . . .	HB	1398
C 348	L 97		Work release program siting . . . . .	HB	1388
C 349	L 97		Correctional facilities/leases . . . . .	SHB	1433
C 350	L 97		Indeterminate sentence review . . . . .	HB	1646
C 351	L 97	PV	Criminal justice training commission . . . . .	E2SHB	1423
C 352	L 97		District court procedures . . . . .	SSB	5295
C 353	L 97		Noxious weeds . . . . .	SHB	1464
C 354	L 97	PV	Irrigation district administration . . . . .	SHB	1729
C 355	L 97		Reclaimed water demonstration . . . . .	2SHB	1817
C 356	L 97	PV	Livestock identification . . . . .	SHB	2089
C 357	L 97		Integrated pest management . . . . .	SSB	5077
C 358	L 97		County clerks' offices . . . . .	SSB	5144
C 359	L 97		State investment board . . . . .	SSB	5270
C 360	L 97	PV	Water rights permits . . . . .	SSB	5276
C 361	L 97	PV	Cities and towns . . . . .	SSB	5336
C 362	L 97		Agriculture definition . . . . .	3SB	5530
C 363	L 97		Beef commission . . . . .	SB	5659
C 364	L 97		Sex offender/public notification . . . . .	ESSB	5759
C 365	L 97		Sentencing . . . . .	SB	5938
C 366	L 97	PV	Rural distressed areas . . . . .	2SSB	5740

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C 367	L 97		Rural natural resources impact . . . . .	2SHB	1201
C 368	L 97		Electric facility/tax exemption . . . . .	SHB	1257
C 369	L 97		Industrial investments . . . . .	ESHB	2170
C 370	L 97		Forest board land revenues . . . . .	HB	1945
C 371	L 97		Elk River Preserve . . . . .	ESHB	1056
C 372	L 97	PV	Performance audits . . . . .	SHB	1190
C 373	L 97		Personal service contracts . . . . .	SHB	1235
C 374	L 97		Social service organizations facilities . . . . .	SHB	1325
C 375	L 97		WSP officers/private employment . . . . .	ESHB	1360
C 376	L 97		Public works methods oversight . . . . .	SHB	1425
C 377	L 97		Rural development council . . . . .	SHB	1499
C 378	L 97		State investigator training . . . . .	SHB	1632
C 379	L 97		Reinsured ceded risks credit . . . . .	SHB	1693
C 380	L 97		Service of process . . . . .	SHB	1780
C 381	L 97	PV	Environmental excellence . . . . .	E2SHB	1866
C 382	L 97		Master planned resorts . . . . .	SHB	2083
C 383	L 97		Low-income senior housing . . . . .	SHB	2189
C 384	L 97	PV	Hay, alfalfa, seed/B&O tax . . . . .	SSB	5175
C 385	L 97		Flood damage repairs . . . . .	2SSB	5442
C 386	L 97	PV	Juvenile care and treatment . . . . .	E2SSB	5710
C 387	L 97		Government use of collection agencies . . . . .	SSB	5827
C 388	L 97		Nonprofit camps/tax exemptions . . . . .	SB	5402
C 389	L 97		Fisheries enhancement/habitat . . . . .	2SSB	5886
C 390	L 97	PV	Medical doctrine . . . . .	SHB	1620
C 391	L 97		Whitewater river outfitters . . . . .	SSB	5483
C 392	L 97	PV	Long-term care services . . . . .	E2SHB	1850
C 393	L 97	PV	County treasury management . . . . .	SSB	5028
C 394	L 97	PV	Gambling/charitable organization . . . . .	SB	5034
C 395	L 97		Juvenile fishing licenses . . . . .	SB	5253
C 396	L 97		Local government permit timeline . . . . .	SSB	5462
C 397	L 97		Credit unions . . . . .	SSB	5563
C 398	L 97		Biosolids management program . . . . .	ESB	5590
C 399	L 97		Real estate appraisers . . . . .	SSB	5676
C 400	L 97		Condominium offering statement . . . . .	SB	5741
C 401	L 97		Venue of actions/counties . . . . .	SB	5831
C 402	L 97		Industrial land banks . . . . .	ESB	5915
C 403	L 97		Higher education financing . . . . .	E2SSB	5927
C 404	L 97		Universal telecommunications service . . . . .	SSB	6046
C 405	L 97		State measures/legal advertising . . . . .	ESSB	6068
C 406	L 97		Model toxics control act . . . . .	ESB	7900
C 407	L 97		Small water districts/tax exemption . . . . .	SHB	1592
C 408	L 97		Discount program membership . . . . .	SB	5195
C 409	L 97	PV	Regulatory reform . . . . .	E2SHB	1032
C 410	L 97		Grain facility clean air requirements . . . . .	SHB	1033
C 411	L 97		Removing child from school . . . . .	SHB	1086
C 412	L 97		Mandated health insurance benefits . . . . .	2SHB	1191

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C 413	L 97		Mining reclamation permit fees . . . . .	HB	1468
C 414	L 97		Salmon harvest reporting . . . . .	SHB	1485
C 415	L 97		Small scale mining/prospecting . . . . .	SHB	1565
C 416	L 97		Workers' compensation self-insurers . . . . .	SHB	1607
C 417	L 97		Pharmacy ancillary personnel . . . . .	SHB	1768
C 418	L 97		Dungeness crab/coastal fishery . . . . .	SHB	1770
C 419	L 97		Environmental technology certification . . . . .	ESHB	1792
C 420	L 97	PV	Cigarette/tobacco tax enforcement . . . . .	ESHB	2272
C 421	L 97		Commercial fishery licenses . . . . .	SSB	5103
C 422	L 97		Pheasant enhancement program . . . . .	SSB	5104
C 423	L 97		Forest practices appeals board . . . . .	SSB	5119
C 424	L 97		Compensatory mitigation . . . . .	ESSB	5273
C 425	L 97		Habitat incentive program . . . . .	SSB	5327
C 426	L 97		Cities/water and sewer districts . . . . .	SB	5650
C 427	L 97		Commercial soil amendments . . . . .	SSB	5701
C 428	L 97		Property insurance rate filings . . . . .	SSB	5750
C 429	L 97	PV	Growth management . . . . .	ESB	6094
C 430	L 97		Regulatory reform . . . . .	SHB	1076
C 431	L 97	PV	Education . . . . .	E2SHB	1303
C 432	L 97	PV	Vehicle/vessel licensing . . . . .	HB	1458
C 433	L 97		Home tuition program . . . . .	EHB	1647
C 434	L 97		Solid waste disposal fees . . . . .	SHB	1657
C 435	L 97		Financial institution compliance . . . . .	HB	1819
C 436	L 97		Ferry worker raises . . . . .	HB	2165
C 437	L 97		County research service . . . . .	SSB	5521
C 438	L 97		Farmworker housing tax exemption . . . . .	SB	5193
C 439	L 97		Columbia/Snake water appropriation . . . . .	ESHB	1110
C 440	L 97	PV	Water rights claim filing . . . . .	SHB	1118
C 441	L 97	PV	Water conservancy boards . . . . .	SHB	1272
C 442	L 97	PV	Water resource management . . . . .	2SHB	2054
C 443	L 97		Water supply safety and reliability . . . . .	SSB	5505
C 444	L 97		Reclaimed water . . . . .	ESSB	5725
C 445	L 97	PV	Public water systems . . . . .	SSB	5783
C 446	L 97		Wells/ground water rights . . . . .	SSB	5785
C 447	L 97		On-site sewage permits . . . . .	SSB	5838
C 448	L 97	PV	Moneys from public lands . . . . .	SHB	1826
C 449	L 97		Oil spill prevention program . . . . .	ESHB	2096
C 450	L 97		Warehouse/grain tax incentives . . . . .	E2SSB	5074
C 451	L 97		Beer tax . . . . .	SSB	5845
C 452	L 97	PV	Tourism promotion/excise tax . . . . .	SSB	5867
C 453	L 97		Aluminum master alloys/tax . . . . .	SSB	5868
C 454	L 97	PV	Operating budget . . . . .	ESHB	2259
C 455	L 97		Capital budget . . . . .	EHB	2255
C 456	L 97		General obligation bonds . . . . .	ESSB	6064
C 457	L 97	PV	Transportation budget . . . . .	ESSB	6061



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**Department of Information Services**  
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Evelyn P. Yenson, Director

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Lyle Quasim, Secretary

**Washington State Patrol**  
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Darrell Beers

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Alison W. Sing

**Everett Community College District No. 5**

Kathleen Gutierrez

**Grays Harbor Community College District  
No. 2**

Guy McMinds

**Highline Community College District No. 9**

John M. Emerson

**Lake Washington Technical College District No.  
26**

Elling B. Halvorson

**Lower Columbia Community College District  
No. 13**

Gary Healea

**Olympic Community College District No. 3**

Naomi K. Pursel

**Peninsula Community College District No. 1**

Ronald W. Johnson

**Pierce Community College District No. 11**

Betty Hogan

**Renton Technical College District No. 27**

Donald Jacobson

**Shoreline Community College District No. 7**

Paul D. Burton  
Edith L. Nelson

**Skagit Valley Community College District No. 4**

Kathleen M. Philbrick

**South Puget Sound Community College District  
No. 24**

Veltry Johnson

**Spokane and Spokane Falls Community  
Colleges District No. 17**

Tom Kneeshaw

**Tacoma Community College District No. 22**

John E. Lantz

**Walla Walla Community College District  
No. 20**

Dr. Alexander Swantz

**Wenatchee Valley Community College District  
No. 15**

Scott Brundage

**Yakima Valley Community College District  
No. 16**

Ricardo R. Garcia

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Jeanne A. Pelkey

**State School for the Deaf**

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Nancylynn Bridges  
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Gabriel C. Love  
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Honorable Patrick R. McMullen

**Forest Practices Appeals Board**

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**Eastern State Hospital Advisory Board**

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**Western State Hospital Advisory Board**

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Fran Lewis  
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**Housing Finance Commission**

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**Marine Employees' Commission**

David Williams

**Interagency Committee for Outdoor  
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**Board of Pilotage Commissioners**

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Sid Snyder . . . . . Democratic Leader  
Valoria H. Loveland . . . . . Democratic Caucus Chair  
Betti L. Sheldon . . . . . Democratic Floor Leader  
Rosa Franklin . . . . . Democratic Whip  
Pat Thibaudeau . . . . . Democratic Caucus Vice Chair  
Calvin Goings . . . . . Democratic Asst. Floor Leader  
Adam Kline . . . . . Democratic Assistant Whip

## Standing Committee Assignments

### House Agriculture & Ecology

Gary Chandler, *Chair*  
Linda Evans Parlette,  
*V. Chair*  
Mark G. Schoesler, *V.*  
*Chair*  
David H. Anderson  
Mike Cooper  
Jerome Delvin  
John Koster  
Kelli Linville  
Dave Mastin  
Debbie Regala  
Bob Sump

### House Appropriations

Tom C. Huff, *Chair*  
Gary Alexander, *V. Chair*  
James Clements, *V. Chair*  
Mike Wensman, *V. Chair*  
Brad Benson  
Don Carlson  
Frank Chopp  
Eileen Cody  
Suzette Cooke  
Larry Crouse  
Mark L. Doumit  
Philip E. Dyer  
Jeff Gombosky  
William Grant  
Karen Keiser  
Phyllis Gutierrez Kenney  
Lynn Kessler  
Kathy Lambert  
Kelli Linville  
Barbara Lisk  
Dave Mastin  
Cathy McMorris  
Linda Evans Parlette  
Erik Poulsen  
Debbie Regala  
Dave Schmidt  
Larry Sheahan  
Helen Sommers  
Gigi Talcott  
Kip Tokuda

### Senate Agriculture & Environment

Bob Morton, *Chair*  
Dan Swecker, *V. Chair*  
Karen Fraser  
Rosemary McAuliffe  
Irv Newhouse  
Bob Oke  
Marilyn Rasmussen

### See Senate Ways & Means

### House Capital Budget

Barry Sehlin, *Chair*  
Jim Honeyford, *V. Chair*  
Jeralita Costa  
Shirley Hankins  
John Koster  
Patricia Lantz  
Maryann Mitchell  
Val Ogden  
Duane Sommers  
Helen Sommers  
Brian Sullivan

### House Children & Family Services

Suzette Cooke, *Chair*  
Marc Boldt, *V. Chair*  
Roger Bush, *V. Chair*  
Ida Ballasiotes  
Michael Carrell  
Mary Lou Dickerson  
Jeff Gombosky  
Jim Kastama  
Joyce McDonald  
Kip Tokuda  
Cathy Wolfe

### House Commerce & Labor

Cathy McMorris, *Chair*  
Jim Honeyford, *V. Chair*  
Marc Boldt  
James Clements  
Grace Cole  
Steve Conway  
Brian Hatfield  
Barbara Lisk  
Alex Wood

### see Senate Ways & Means

### see Senate Human Services & Corrections

### Senate Commerce & Labor

Ray Schow, *Chair*  
Jim Horn, *V. Chair*  
Ann Anderson  
Rosa Franklin  
Karen Fraser  
Michael Heavey  
Irv Newhouse

## Standing Committee Assignments

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<b><u>House Criminal Justice &amp; Corrections</u></b> Ida Ballasiotes, <i>Chair</i> Brad Benson, <i>V. Chair</i> John Koster, <i>V. Chair</i> Rod Blalock Jack Cairnes Jerome Delvin Mary Lou Dickerson Timothy Hickel Maryann Mitchell Al O'Brien Dave Quall Eric Robertson Brian Sullivan	see Senate Law & <b><u>Justice; Human Services &amp; Corrections</u></b>	<b><u>House Finance</u></b> Brian Thomas, <i>Chair</i> Michael Carrell, <i>V. Chair</i> Joyce Mulliken, <i>V. Chair</i> Marc Boldt Patty Butler Steve Conway Mary Lou Dickerson Hans Dunshee Jim Kastama Dawn Mason Jeff Morris John Pennington Mark G. Schoesler Bill Thompson Steve Van Luven	see Senate Ways & Means
<b><u>House Education</u></b> Peggy Johnson, <i>Chair</i> Timothy Hickel, <i>V. Chair</i> Grace Cole Karen Keiser Kelli Linville Dave Quall Scott Smith Mark Sterk Bob Sump Gigi Talcott Velma Veloria	<b><u>Senate Education</u></b> Harold Hochstatter, <i>Chair</i> Bill Finkbeiner, <i>V. Chair</i> Calvin Goings Stephen L. Johnson Rosemary McAuliffe Marilyn Rasmussen Joseph Zarelli	<b><u>House Financial Institutions &amp; Insurance</u></b> Les Thomas, <i>Chair</i> Scott Smith, <i>V. Chair</i> Paul Zellinsky, Sr., <i>V. Chr</i> Brad Benson Dow Constantine Richard DeBolt William Grant Karen Keiser Brian Sullivan Mike Wensman Cathy Wolfe	<b><u>Senate Financial Institutions, Insurance &amp; Housing</u></b> Shirley J. Winsley, <i>Chair</i> Don Benton, <i>V. Chair</i> Bill Finkbeiner Patricia S. Hale Michael Heavey Adam Kline Margarita Prentice
<b><u>House Energy &amp; Utilities</u></b> Larry Crouse, <i>Chair</i> Richard DeBolt, <i>V. Chair</i> Dave Mastin, <i>V. Chair</i> Roger Bush Mike Cooper Jim Honeyford Jim Kastama Lynn Kessler Thomas M. Mielke Jeff Morris Joyce Mulliken Erik Poulsen Brian Thomas	<b><u>Senate Energy &amp; Utilities</u></b> Bill Finkbeiner, <i>Chair</i> Harold Hochstatter, <i>V. Chair</i> Lisa J. Brown Ken Jacobsen Dino Rossi Gary Strannigan Lena Swanson	<b><u>House Government Administration</u></b> Dave Schmidt, <i>Chair</i> Duane Sommers, <i>V. Chair</i> Mark L. Doumit Jim Dunn Hans Dunshee Georgia Gardner Edward B. Murray Bill H. Reams Patricia "Pat" Scott Scott Smith Les Thomas Mike Wensman Cathy Wolfe	<b><u>Senate Government Operations</u></b> Bob McCaslin, <i>Chair</i> Patricia S. Hale, <i>V. Chair</i> Ann Anderson Mary Margaret Haugen Jim Horn Julia Patterson Lena Swanson

## Standing Committee Assignments

### House Government Reform & Land Use

Bill H. Reams, *Chair*  
Jack Cairnes, *V. Chair*  
Mike Sherstad, *V. Chair*  
Roger Bush  
Ruth Fisher  
Georgia Gardner  
Patricia Lantz  
Thomas M. Mielke  
Joyce Mulliken  
Sandra Singery Romero  
Bill Thompson

### House Health Care

Philip E. Dyer, *Chair*  
Bill Backlund, *V. Chair*  
Mary Skinner, *V. Chair*  
David H. Anderson  
Eileen Cody  
Steve Conway  
Edward B. Murray  
Linda Evans Parlette  
Mike Sherstad  
Alex Wood  
Paul Zellinsky, Sr.

### House Higher Education

Don Carlson, *Chair*  
Renee Radcliff, *V. Chair*  
Patty Butler  
Jim Dunn  
Phyllis Gutierrez Kenney  
Dawn Mason  
Al O'Brien  
Larry Sheahan  
Steve Van Luven

### see Senate Government Operations

### Senate Health & Long-Term Care

Alex A. Deccio, *Chair*  
Jeannette Wood, *V. Chair*  
Don Benton  
Darlene Fairley  
Rosa Franklin  
Gary Strannigan  
R. Lorraine Wojahn

### Senate Higher Education

Jeannette Wood, *Chair*  
Shirley J. Winsley, *V. Chair*  
Albert Bauer  
Patricia S. Hale  
Jeanne Kohl  
Julia Patterson  
Eugene A. Prince  
Betti L. Sheldon  
James E. West

### see House Criminal Justice & Corrections; Children & Family Services

### House Law & Justice

Larry Sheahan, *Chair*  
Joyce McDonald, *V. Chair*  
Mark Sterk, *V. Chair*  
Michael Carrell  
Eileen Cody  
Dow Constantine  
Jeralita Costa  
Phyllis Gutierrez Kenney  
Kathy Lambert  
Patricia Lantz  
Renee Radcliff  
Mike Sherstad  
Mary Skinner

### House Natural Resources

Jim Buck, *Chair*  
Bob Sump, *V. Chair*  
Bill Thompson, *V. Chair*  
Gary Alexander  
David H. Anderson  
Patty Butler  
Gary Chandler  
Brian Hatfield  
John Pennington  
Debbie Regala  
Timothy Sheldon

### Senate Human Services & Corrections

Jeanine H. Long, *Chair*  
Joseph Zarelli, *V. Chair*  
Rosa Franklin  
James E. Hargrove  
Jeanne Kohl  
Ray Schow  
Val Stevens

### Senate Law & Justice

Pam Roach, *Chair*  
Stephen L. Johnson, *V. Chair*  
Darlene Fairley  
Calvin Goings  
James E. Hargrove  
Mary Margaret Haugen  
Adam Kline  
Jeanine H. Long  
Bob McCaslin  
Val Stevens  
Joseph Zarelli

### Senate Natural Resources & Parks

Bob Oke, *Chair*  
Dino Rossi, *V. Chair*  
James E. Hargrove  
Ken Jacobsen  
Bob Morton  
Margarita Prentice  
Pam Roach  
Sid Snyder  
Harriet A. Spanel  
Val Stevens  
Dan Swecker

## Standing Committee Assignments

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### House Rules

Clyde Ballard, *Chair*  
Marlin Appelwick  
Bill Backlund  
Frank Chopp  
Jeralita Costa  
Jerome Delvin  
Shirley Hankins  
Jim Honeyford  
Kathy Lambert  
Barbara Lisk  
Val Ogden  
John Pennington  
Dave Quall  
Eric Robertson  
Sandra Singery Romero  
Karen Schmidt  
Mark G. Schoesler  
Patricia "Pat" Scott  
Gigi Talcott

### House Trade & Economic Development

Steve Van Luven, *Chair*  
Jim Dunn, *V. Chair*  
Gary Alexander  
Ida Ballasiotes  
Dawn Mason  
Joyce McDonald  
Jeff Morris  
Timothy Sheldon  
Velma Veloria

### Senate Rules

Lt. Governor Brad Owen,  
*Chair*  
Irv Newhouse, *V. Chair*  
Albert Bauer  
Don Benton  
Patricia S. Hale  
Jim Horn  
Stephen L. Johnson  
Valoria H. Loveland  
Rosemary McAuliffe  
Dan McDonald  
George L. Sellar  
Betti L. Sheldon  
Sid Snyder  
Val Stevens  
Gary Strannigan  
Dan Swecker  
Pat Thibaudeau  
R. Lorraine Wojahn  
Joseph Zarelli

### see Senate Commerce & Labor

### House Transportation Policy & Budget

Karen Schmidt, *Chair*  
Shirley Hankins, *V. Chair*  
Thomas M. Mielke, *V. Chr*  
Maryann Mitchell, *V. Chr*  
Bill Backlund  
Jim Buck  
Rod Blalock  
Jack Cairnes  
Gary Chandler  
Dow Constantine  
Mike Cooper  
Richard DeBolt  
Ruth Fisher  
Georgia Gardner  
Brian Hatfield  
Peggy Johnson  
Edward B. Murray  
Al O'Brien  
Val Ogden  
Renee Radcliff  
Eric Robertson  
Sandra Singery Romero  
Patricia "Pat" Scott  
Mary Skinner  
Mark Sterk  
Alex Wood  
Paul Zellinsky, Sr.

### Senate Transportation

Eugene A. Prince, *Chair*  
Don Benton, *V. Chair*  
Jeannette Wood, *V. Chair*  
Calvin Goings  
Mary Margaret Haugen  
Michael Heavey  
Jim Horn  
Ken Jacobsen  
Bob Morton  
Irv Newhouse  
Bob Oke  
Julia Patterson  
Margarita Prentice  
Marilyn Rasmussen  
George L. Sellar



see House

Appropriations;

Capital Budget; Finance

Senate Ways & Means

James E. West, *Chair*

Alex A. Deccio, *V. Chair*

Gary Strannigan, *V. Chair*

Albert Bauer

Lisa J. Brown

Karen Fraser

Harold Hochstatter

Jeanne Kohl

Jeanine H. Long

Valoria H. Loveland

Dan McDonald

Pam Roach

Dino Rossi

Ray Schow

Betti L. Sheldon

Sid Snyder

Harriet A. Spanel

Dan Swecker

Pat Thibaudeau

Shirley J. Winsley

Joseph Zarelli