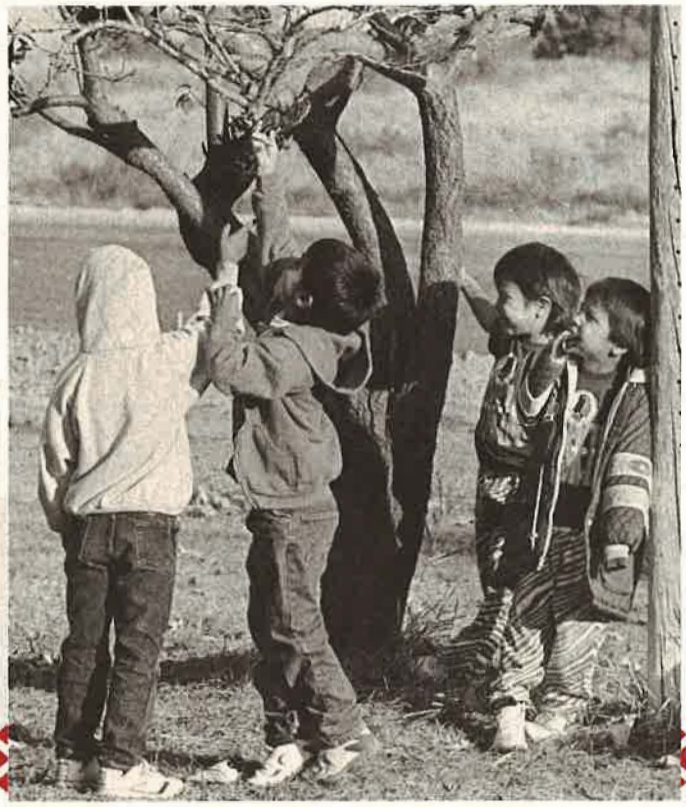
1994 Final Legislative Report



Fifty-Third Washington State Legislature

1994 Regular Session & First Special Session

1994 Final Legislative Report

This issue of the 1994 Final Legislative Report provides a collection of contemporary photos of Washington's indigenous peoples.

Cover photo is of children at the Paschal Sherman Indian School, Colville Confederated Tribe, Colville, WA; cover quote by David Whitener, Squaxin Tribal Elder, Shelton, WA, used with permission. All photos courtesy of Washington State Senate Photography, except where noted.

The final edition of the 1994 Legislative Report is available from:

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Legislative Building
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For more detailed information regarding 1994 legislation, contact:

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Fifty-Third Washington State Legislature

1994 Regular Session
& First Special Session

When considering any action, the elders weigh its benefits against the consequences for the seventh generation from themselves. The elders know that they are themselves here as a seventh generation, and that their way of life has been preserved because of the foresight of that previous generation.

As the elders point out, the future is not some abstract concept out there in an uncertain tomorrow; it is coming from behind. If this philosopy were practiced more widely, they say, our decisions today would not pose such a threat to the life-sustaining Earth.

-- Governor's Office of Indian Affairs, 1990

■

Above, Anita Cheer with students at the Paschal Sherman Indian School, Colville; below, Joseph Kalama, Nisqually Chaplain, offered a prayer in the Senate chambers.

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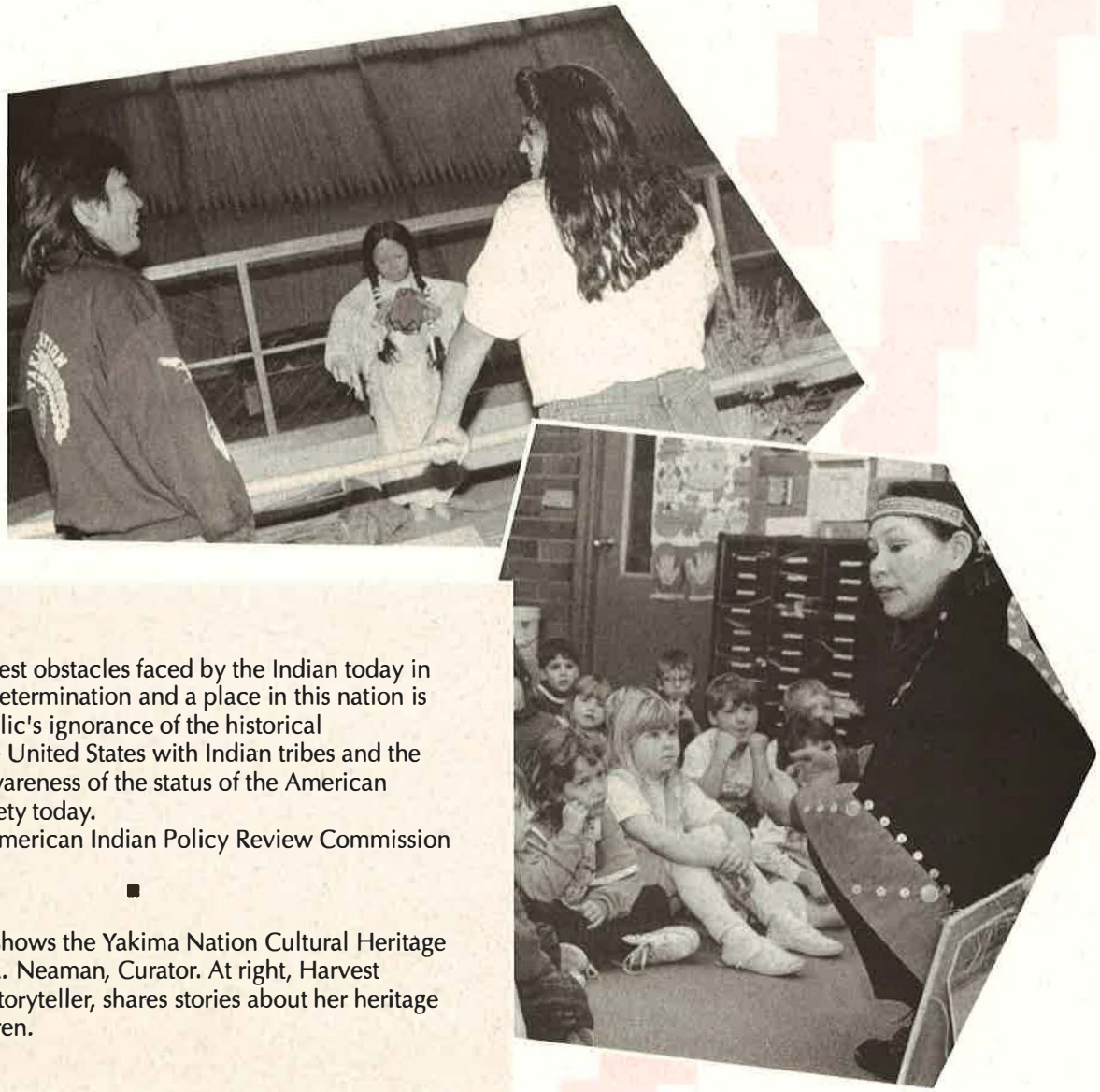

One of the greatest obstacles faced by the Indian today in his drive for self-determination and a place in this nation is the American public's ignorance of the historical relationship of the United States with Indian tribes and the lack of general awareness of the status of the American Indian in our society today.

--The American Indian Policy Review Commission

■

Photo above shows the Yakima Nation Cultural Heritage Center, Brycene A. Neaman, Curator. At right, Harvest Moon, Quinault storyteller, shares stories about her heritage with school children.

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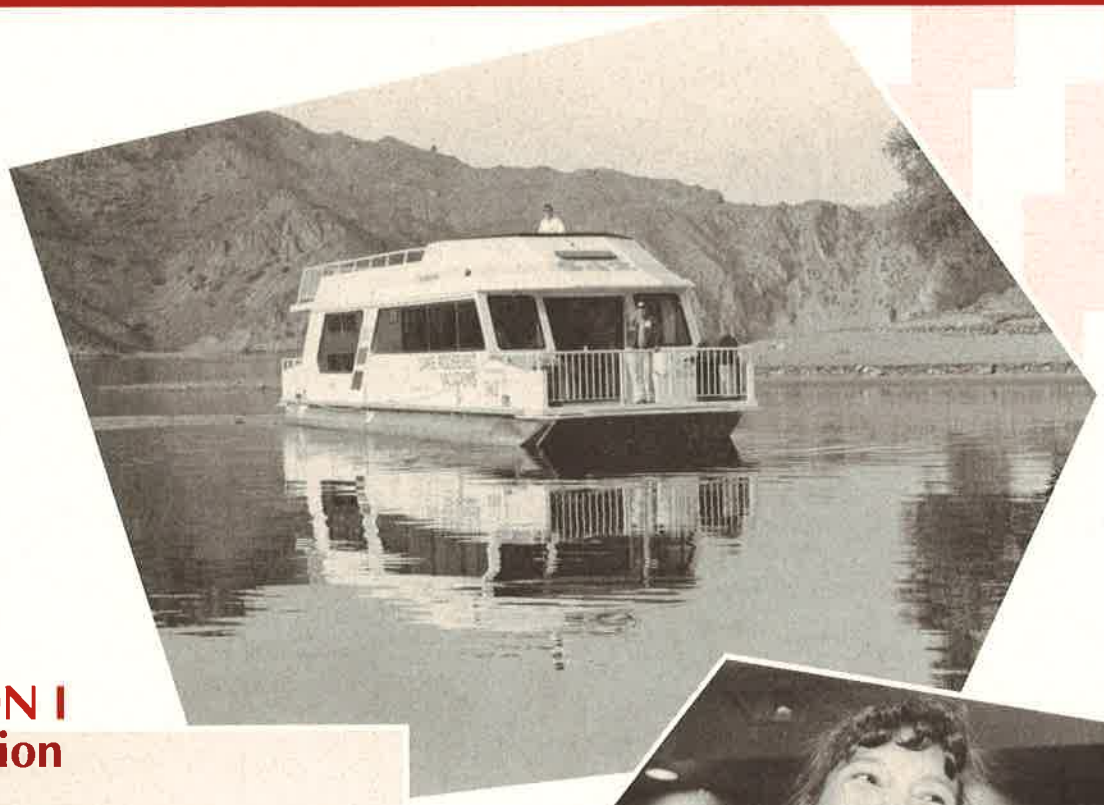
1994 Regular and First Special Sessions

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
1994 Regular Session (January 10 - March 10)					
House	784	178	3	12	175
Senate	619	136	4	12	132
1994 First Special Session (March 11 - March 14)					
House	0	6	0	2	6
Senate	0	4	0	1	4
TOTALS	**1,403**	**324**	**7**	**27**	**317**

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
1994 Regular Session (January 10 - March 10)		
House	25	1
Senate	26	6
1994 First Special Session (March 11 - March 14)		
House	0	0
Senate	1	2
TOTALS	**52**	**9**
Initiatives	**0**	**2**

Gubernatorial Appointments	Referred	Confirmed
1994 Regular Session (January 10 - March 10)	95	108
1994 First Special Session (March 11 - March 14)	2	3



SECTION I
Legislation Passed

The most fundamental of the goods which a tribe may bring to its members is economic security. Few things bind men so closely as a common interest in the means of their livelihood. No tribe will dissolve so long as there are lands or resources that belong to the tribe or economic enterprises in which all members of the tribe may participate.

-- Governor's Office of Indian Affairs, 1990

■

Above, two types of economic resources provide tribal funds: Lake Roosevelt Houseboats at Keller Ferry Marina is operated by the Colville Tribe; Denise Sheldon is a dealer at the Tulalip Casino in Marysville.

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SENATE JOINT MEMORIALS

I 593

C 1 L 94

Relating to persistent offenders; life sentence on third conviction.

By People of the State of Washington

Background: Any person who was convicted of a crime committed before July 1, 1984, which involved fraud or an intent to defraud as an element, or larceny or any felony, could be sentenced to life imprisonment as a habitual criminal if he or she had two prior felony convictions, or had been convicted four times of any crime which involved fraud or intent to defraud as an element. Any person sentenced to life imprisonment as a habitual criminal was still eligible for parole.

The Sentencing Reform Act applies to felonies committed on or after July 1, 1984. The sentencing grid used pursuant to the Sentencing Reform Act counts prior felony convictions as part of the offender's criminal history score. Offenders with previous convictions receive higher scores under the grid, and as a result are given longer sentences. The sentencing judge can give an exceptional sentence that varies from the presumptive sentence if aggravating or mitigating circumstances are present. Certain offenses (i.e., first degree murder, first degree rape and first degree assault) have mandatory minimum sentences.

The Sentencing Reform Act does not provide a punishment of life imprisonment for habitual offenders.

Summary: A person who meets the definition of a persistent offender must be sentenced to a term of life imprisonment without the possibility of parole, unless the offender is sentenced to death for the crime of aggravated murder.

"Persistent offender" is defined as an offender who has been convicted of a felony considered a "most serious offense," and has been previously convicted on at least two separate occasions of felonies that would be considered as most serious offenses.

"Most serious offense" is defined to include the following felonies or attempted felonies:

- Any Class A felony;
- Assault 2nd degree (Class B, Level IV);
- Assault of a child 2nd degree (Class B, Level IX);
- Child molestation 2nd degree (Class B, Level VII);
- Controlled substance homicide (Class B, Level IX);
- Extortion 1st degree (Class B, Level V);
- Incest with child under age 14 (sexual intercourse - Class B, Level VI; sexual contact - Class C, Level V);
- Indecent liberties (Class B, forced - Level IX, unforced - Level VII);
- Kidnapping 2nd degree (Class B, Level V);
- Leading organized crime (Class B, Level X);
- Manslaughter 1st degree (Class B, Level IX);
- Manslaughter 2nd degree (Class C, Level VI);
- Promoting prostitution 1st degree (Class B, Level III);
- Rape 3rd degree (Class C, Level V);
- Robbery 2nd degree (Class B, Level IV);
- Sexual exploitation (Class B, Level IX);
- Vehicular assault (Class C, Level IV);
- Vehicular homicide when proximately caused by driving under the influence or by driving recklessly (Class B, Level VII);
- Any other Class B felony with a finding of sexual motivation; and
- Any felony with a deadly weapon finding.

Persons convicted of first degree murder, first degree rape, and first degree assault are not eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release or authorized leave of absence unless it is for emergency medical treatment or inpatient treatment because of a first degree rape conviction.

Sentencing judges, law enforcement agencies, and correctional facilities are authorized, but not required, to give offenders who have been convicted of a serious offense notice of sanctions imposed upon persistent offenders.

The Governor is urged to refrain from pardoning or granting clemency to anyone sentenced as a persistent offender until the offender has reached the age of at least 60 and is judged to no longer be a threat to society. The Governor must provide reports at least twice a year on the status of persistent offenders who are released during the Governor's tenure. The reports must continue for at least ten years after the offender's release or until the death of the offender.

Effective: December 2, 1993

I 601

C 2 L 94

Limiting revenue growth.

By People of the State of Washington

Background: The growth of state revenue is limited under Initiative 62, which was adopted by the voters in 1979. Under this initiative, general state tax revenues cannot grow at a greater rate than the combined income of all the state's citizens. State revenues have not exceeded this limit since the Initiative was enacted.

Initiative 62 also prohibits the Legislature from requiring local governments to offer new or expanded services unless the costs are reimbursed by the state. Initiative 62 did not specify what counts as reimbursement. In 1990, the Legislature amended the initiative to count increased local revenue and state revenue-sharing payments as reimbursement.

Summary: Initiative 601 replaces the revenue limit in Initiative 62 with a general fund expenditure limit. The limit

first applies to the fiscal year that begins July 1, 1995. Under the limit, expenditures cannot grow at a greater rate than the average of the sum of inflation and population change during the previous three fiscal years. The Office of Financial Management calculates the limit. The expenditure limit must be lowered if program costs or moneys are shifted out of the state general fund. The state treasurer may not issue or redeem warrants that would cause state general fund expenditures in excess of limit.

The expenditure limit may be exceeded, for natural disasters, upon declaration of an emergency for a period not to exceed 24 months by a law approved by a two-thirds vote of each house of the Legislature and signed by the governor. The expenditure limit may be exceeded for other purposes after a two-thirds vote of each house of the Legislature plus approval of voters at a November general election.

All revenue received in excess of the expenditure limit must be deposited in a newly-created emergency reserve fund. The Legislature can appropriate from the reserve fund by a two-thirds vote of each house, but only if expenditure limit is not exceeded as a result. If the emergency reserve fund exceeds 5% of the general fund balance, the excess is deposited in a newly-created education construction fund. The education construction fund may be appropriated for common school or higher education construction by a majority of each house of the Legislature. The education construction fund may be appropriated for any purpose by two-thirds vote of each house of the Legislature, plus approval of voters at the next general election.

No new taxes, increased taxes, or revenue-neutral tax shifts may be imposed before July 1, 1995, without approval of voters. After July 1, 1995, the Legislature can raise revenue up to the expenditure limit or enact revenue-neutral tax shifts only by a two-thirds vote of each house.

No fee may be increased by a percentage in excess of the fiscal growth factor without legislative approval.

The Legislature shall not impose new programs or increased levels of service for existing programs on local governments without full reimbursement by specific appropriation.

State and local governments are prohibited from imposing any tax on intangible property which is currently exempt from property tax, such as mortgages, notes, accounts, stocks, and bonds.

Effective: July 1, 1995 except the voter-approval requirement for tax increases and the restriction on fee increases took effect December 2, 1993.

2SHB 1009

C 155 L 94

Prescribing liabilities for lis pendens filings.

By House Committee on Judiciary (originally sponsored by Representatives Appelwick and Riley).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: The term "lis pendens" means "notice of the pendency of an action." The purpose of a lis pendens is to warn persons such as potential buyers or lenders that the title to certain real property is in litigation. Purchasers and lenders may be bound by an adverse judgment arising from the litigation if they purchase or encumber the property subsequent to the lis pendens filing. A lis pendens is a procedural mechanism to force a purchaser or encumbrancer under a subsequent conveyance to either establish the claim in the pending action or be bound by the judgment entered in the action as if the purchaser or encumbrancer was a party to the action. The lis pendens does not affect the parties' substantive rights.

One Washington appellate court has held that a lis pendens is improper when filed in anticipation of securing a personal judgment for money even though that judgment, if obtained and properly docketed, is a lien upon the property. In certain circumstances a person who is injured due to an improperly filed lis pendens can recover damages under a common law doctrine known as slander of title. However, the elements of slander of title are restrictive, and the remedy is not readily available even if a lis pendens is filed improperly.

The lis pendens is ineffective if personal service of the complaint is not made by the claimant within 60 days of filing the lis pendens. Upon motion of an aggrieved party for good cause shown, the court may cancel the lis pendens anytime after the case has been settled or ended.

Summary: A claimant in an action not affecting title to real property against which a lis pendens is filed is liable to an aggrieved party who prevails on a motion to cancel the lis pendens, for (1) actual damages caused by filing the lis pendens, and (2) reasonable attorney fees incurred in cancelling the lis pendens.

Unless the claimant establishes a substantial justification for filing the lis pendens, a claimant is liable to an aggrieved party who prevails in defense of an underlying action in which a lis pendens is filed (1) for actual damages caused by filing the lis pendens, and (2) in the court's discretion, reasonable attorney fees and costs incurred in defending the action. This provision applies both to actions not affecting title to real property and to actions affecting title to real property.

The act does not apply to lis pendens filed in connection with an action under Title 6 which concerns enforcement of judgments, most of Title 60, which concerns enforcement of liens, and Title 61, which concerns enforcement of mortgages, deeds of trusts, and real estate contracts. The act applies to private parties who file lis pendens, but not to governmental agencies. Instruments having the effect of a lis pendens that are governed by the act include certain types of liens, such as common law liens.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	92	0	(House concurred)

Effective: June 9, 1994

SHB 1090

FULL VETO

Protecting communications in law enforcement officers peer support groups.

By House Committee on Judiciary (originally sponsored by Representative Scott.)

House Committee on Judiciary
Senate Committee on Law & Justice

Background: The judiciary has inherent power to compel witnesses to appear and testify. The presumption is that the duty of a witness is to testify about facts within the witness' knowledge. However, certain narrow exceptions to this rule have been developed through the common law and adopted in statute. Those exceptions are "testimonial privileges" which, because of countervailing policy considerations, prohibit disclosure of confidential communications made between persons occupying a special confidential relationship to one another. Because any grant of testimonial privilege is in direct conflict with the essential judicial power to compel the production of evidence, privileges are generally narrowly construed. Generally, if a third person is present when the communication is made, the privilege is lost.

Under common law, four criteria had to be met to establish a privilege: (1) the communication must originate in the confidence that it will not be disclosed; (2) the element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties; (3) the relationship must be one which in the opinion of the community ought to be fostered; and (4) the injury that would inure to the relationship by the disclosure of the communication must be greater than the benefit gained for the correct disposal of litigation.

Five privileges exist in statute. Communications between the following persons are privileged: (1) husband and wife; (2) attorney and client; (3) clergy and confessor; (4) physician and patient under certain circumstances; and (5) public officers and witnesses if the statement was made in confidence and if the public interest would suffer by disclosure.

Some law enforcement agencies have "peer support group" counselors who counsel officers who have been involved in a traumatic incidents while on duty, such as when an officer shoots and kills a person. Law enforcement would like a new testimonial privilege created to protect from disclosure statements the officer makes to the peer support group counselor.

Summary: A new testimonial privilege is created.

A law enforcement officer who is a designated peer support group counselor shall not, without consent of the other officer making the communication, be compelled to testify in any judicial proceeding about any communication the other law enforcement officer made to the counselor while receiving counseling from that counselor. The privilege only applies when the communication was made to the counselor when acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was a witness or a party to any incident which prompted the delivery of peer support group counseling services to the law enforcement officer. The role of the designated peer support group counselor is to provide emotional and moral support and counseling to an officer who needs peer support services as a result of an incident in which the officer was involved while acting in his or her official capacity.

Votes on Final Passage:

House	96	0
Senate	47	0

VETO MESSAGE ON HB 1090-S

April 2, 1994

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. 1090 entitled:

"AN ACT Relating to privileged communications;"

Under current law, an individual may not be compelled to give testimony at a judicial proceeding regarding communications which took place between that individual and another person in one of essentially four relationships. These relationships include a husband and a wife, a lawyer and a client, a doctor and a patient, and a priest and a penitent. In most circumstances, communications which take place between the above-mentioned relationships are considered confidential. These privileges are standard throughout the country and have as their basis many decades of judicial scrutiny and review. As courts recognize the value of testimony to courts and juries seeking to hear all of the facts and to determine the truth, the trend has been to limit these privileges.

Substitute House Bill No. 1090 would add a new relationship to this narrow list by including communications that occur between a police officer and a police peer group counselor. While I have the greatest respect for the difficult and demanding work that our police officers perform, I do not believe that it is appropriate to add conversations between a police officer and a peer group counselor to this narrow list of privileged communications. Whenever communications are privileged, a court and a jury are prevented from hearing all of the evidence.

Peer group counselors provide necessary help to police officers in need. In this bill, however, the definition of peer group counselor is unclear and invites communications that are not intended to be confidential to possibly acquire the privilege. If this bill were to become law, it would be difficult to justify the unique nature of this crucial peer relationship as compared to other similar peer relationships which could result in the need to extend this privilege to others. Police officers who require additional counseling should be encouraged to seek help from professionals. Importantly, under current law these communications would likely be privileged as a doctor and patient relationship.

For these reasons, I have vetoed Substitute House Bill No. 1090 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 1122

C 156 L 94

Changing provisions relating to excess levies in park and recreation districts and service areas.

By House Committee on Local Government (originally sponsored by Representatives Pruitt, Schmidt, Zellinsky, H. Myers, B. Thomas, Dunshee, Valle, R. Meyers, Basich, Brough and Quall).

House Committee on Local Government
House Committee on Revenue
Senate Committee on Ecology & Parks

Background:

Property tax levies.

Regular property tax levies are property taxes subject to a constitutional 1 percent limitation on cumulative property taxes that may be imposed on any property. Statutes permit most regular property tax levies to be imposed without voter approval, although a few regular property tax levies may be imposed only if authorized by voters.

Excess property tax levies are property tax levies that are imposed above, or in excess of, the constitutional 1 percent limitation on cumulative regular property tax levies. Except for non-voter approved tax levies by port districts and public utility districts, all excess levies must be approved by voters by a 60 percent affirmative vote, with a 40 percent validation requirement.

Park and recreation districts and park and recreation service areas.

Park and recreation districts and park and recreation service areas are special districts authorized to provide park and recreation improvements.

Both types of special districts are authorized to impose voter-approved excess property tax levies, as well as voter-approved regular property tax levies. Regular property tax levies may be authorized at a rate of up to 15 cents per $1,000 of assessed valuation each year if a ballot proposition authorizing these regular levies is approved by a 60 percent vote with a 40 percent validation requirement, even though these are not excess levies. Voters authorize

these regular levies for five years in park and recreation districts and six year periods in park and recreation service areas.

Summary: A park and recreation district or park and recreation service area may impose more than one excess levy if authorized by voters.

The maximum annual rate for voter-approved regular property tax levies for park and recreation districts and park and recreation service areas increases from 15 cents to 60 cents per $1,000 of assessed valuation. The number of years that voters may authorize a park and recreation district to impose its regular levies is increased by one year to a total of six years.

Votes on Final Passage:

House	95	2	
Senate	25	24	(Senate amended)
House	96	0	(House concurred)

Effective: June 9, 1994

HB 1133

C 9 L 94

Allowing the assignment of claims for unlawful conversion of goods and unlawful leaving without paying.

By Representatives Kremen, Ballasiotes, Ludwig, Long, Riley, H. Myers, Zellinsky, Schmidt, Padden, Fuhrman and Johanson.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Criminal and civil penalties may be imposed for shoplifting and related thefts of property or services.

Depending on the nature and value of the property stolen, the crime of theft ranges from a gross misdemeanor to a class B felony.

Special civil penalties apply to shoplifting and theft of restaurant or lodging services. In addition to actual damages, which include the value of services or property taken, certain penalties and costs may be recovered by a merchant from the person taking the goods or services. If the defendant is an adult or emancipated minor, those additional penalties and costs include:

(1) the retail value of the goods or services, to a maximum of $1,000;
(2) a penalty of at least $100 but not more than $200; and
(3) reasonable attorney's fees and court costs.

Vicarious liability is also imposed on the parent of an unemancipated minor who steals such goods or services. However, in the case of parental liability, the additional "retail value" penalty maximum of $1,000 is reduced to $500.

Pursuit of these civil remedies by a merchant is independent of whether criminal charges are filed or prosecuted.

If a merchant gets a civil judgment under these provisions, that judgment may be assigned to another party for collection. Collection of the judgment debt may be accomplished through a debt collection agency. However, a claim that has not been reduced to a judgment cannot be assigned.

Summary: Claims, as well as judgments, may be assigned by a merchant who has suffered the theft of goods or services.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: June 9, 1994

SHB 1159

C 210 L 94

Disclosing improper governmental action.

By House Committee on Local Government (originally sponsored by Representatives H. Myers, Edmondson, Ludwig, Scott, Campbell, Kremen, Rayburn and Johanson.)

House Committee on Local Government
Senate Committee on Government Operations

Background: The Legislature enacted a local government "whistleblower" program during the 1992 session to provide protections to local government employees who report improper governmental action to proper authorities. The protections provided to local government employees are similar to those provided to state government employees under the state whistleblower program.

Both the state and the local government whistleblower programs prohibit retaliatory action from being taken against the employee who disclosed information concerning the improper governmental action. "Retaliatory action" is defined under the state government whistleblower legislation to include specifically a supervisor or superior who encourages coworkers to behave in a hostile manner toward the whistleblower. There is no similar specific prohibition contained in the local government whistleblower statutes.

A state government office holder or employee is prohibited under the state whistleblower law from using his or her official influence or authority to attempt to influence or coerce another employee from reporting improper governmental action. There is no similar prohibition contained in the local government whistleblower statutes.

Summary: The definition of "retaliatory action" under the local government "whistleblower" statutes is amended to include hostile actions by another employee toward the

whistleblower that were encouraged by a supervisor, senior manager, or local official.

Local government officials and employees are prohibited from directly or indirectly using their official authority or influence to threaten, intimidate, or coerce an employee to interfere with the employee's right to report improper governmental action.

Votes on Final Passage:

House	94	0	
Senate	43	2	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	44	1	
House	96	0	

Effective: June 9, 1994

ESHB 1182

C 69 L 94

Allowing retired teachers to work in educational institutions for ninety days per school year without a reduction in benefits.

By House Committee on Education (originally sponsored by Representatives Brumsickle, Karahalios, Dorn, Chandler, Peery, G. Cole, Zellinsky, Chappell, Jacobsen, Basich, Carlson, Wood, Thomas, Brough, Cothern, Van Luven, Johanson, Shin, Jones, Morton, Ballard, Padden, Fuhrman, Sheahan, Talcott, Schoesler, Long, Eide, Flemming, Wang, Horn, Mielke, Tate, Springer, Cooke, Dyer, Leonard, Foreman, Vance, Pruitt and Finkbeiner).

House Committee on Appropriations
Senate Committee on Education

Background: Retired teachers on Teachers' Retirement System Plan I (TRS I) may serve as substitute teachers for up to 75 days a school year without affecting their retirement benefits.

Summary: The TRS I limitation of 75 days per year of substitute teaching without reduction of retirement benefits may be extended 15 days for retired substitutes working in school districts or in multi-district substitute cooperatives in which it has been determined that a shortage of substitutes exists. This determination must be made by school districts annually. The change shall be effective beginning September 1, 1994.

Votes on Final Passage:

House	98	0	
Senate	43	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 9, 1994

2SHB 1235

C 211 L 94

Creating partnerships.

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Padden, Ludwig and Johanson).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Business organizations in the state of Washington have three general organizational forms to choose from: (1) corporate, (2) general partnership, and (3) limited partnership. Each of these forms has unique characteristics that create both advantages and disadvantages for conducting business.

Corporations are created when articles of incorporation are filed with the Secretary of State. Corporate existence is perpetual regardless of what happens to shareholders, directors, or officers. Corporations have centralized management consisting of: a board of directors, which supervises management; officers, who carry out the policies of the board of directors; and shareholders, who may have no active role in management except electing the board of directors and other specified matters. Generally, corporate shares are freely transferable, and shareholders are liable for corporate debts and obligations only to the extent of their investment in the corporation. Corporations are treated as taxable entities.

A general partnership is created whenever two or more persons create an association to carry on business and share in profits and ownership control. No legal documentation is required to form a partnership, and the partnership dissolves upon the death, bankruptcy or withdrawal of any partner, unless otherwise agreed. Each partner is an agent of all others and can bind the partnership. Ordinary partnership matters are decided by a majority vote of the partners. Partners cannot transfer their interests in the partnership unless all other partners agree. Each partner has unlimited personal liability for the debts and obligations of the partnership, and the partnership is treated as a flow-through entity for taxation purposes.

Limited partnerships consist of general partners and limited partners. General partners run the business and are fully liable for the partnership's debts and obligations. Limited partners are liable only to the extent of their contributions, as long as they do not participate in control of the business. Limited partnerships are formed when a document is filed with the Secretary of State, and it exists for as long as the parties agree or until a general partner withdraws. General partners have the authority to bind the partnership, and limited partners have voting authority over specified matters. The interests of general partners cannot be transferred unless all general and limited partners agree, whereas limited partners' interests are freely

assignable. Limited partnerships are not taxed at the entity level unless they are operated like a corporation.

One of the major differences between corporations and general and limited partnerships relates to tax treatment. Corporations are taxed at the entity level, resulting in double taxation for all earnings distributed to shareholders. General partnerships are not taxable entities. All profits and losses flow through to the partners, who must pay taxes. Limited partnerships are treated like general partnerships for tax purposes, unless the limited partnership operates like a corporation. There are four factors the Internal Revenue Service uses to distinguish a corporation from a partnership for tax purposes: (1) continuity of life; (2) centralized management; (3) limited liability; and (4) transferability of ownership interests. An organization will be treated as a corporation for tax purposes if it has more corporate than noncorporate characteristics.

Another important distinction between corporations and partnerships concerns the liability of owners. A corporate shareholder is liable only to the extent of his or her investment in the corporation. However, a court may "pierce the corporate veil" and impose personal liability on a shareholder in special circumstances. Under Washington case law, piercing may occur if a corporation has been intentionally used to violate or evade a duty owed to another and the piercing is necessary to prevent unjustified loss to an injured party. Meisel v. M & N Modern Hydraulic Press Co., 97 Wn.2d 403 (1982). In contrast, all partners in a general partnership, and at least one partner in a limited partnership, are subject to personal liability for any of the partnership's debts or obligations.

Recently, the limited liability company has developed in other states as an alternative form of organizing a business. The limited liability company combines the tax advantages of a partnership with the limited liability advantages of a corporation. The limited liability company is a noncorporate entity that allows the owners to participate actively in management and provides them with limited liability. The limited liability company may avoid being taxed at the entity level because of limitations on transferability of interests, limited existence, and the possibility of owner management.

Wyoming first enacted a limited liability company statute in 1977, followed by Florida in 1982. No more states enacted limited liability company statutes until 1990 when the Internal Revenue Service ruled that a Wyoming limited liability company would be treated as a partnership for tax purposes. The Internal Revenue Service stated that the lack of personal liability would not preclude classifying an entity as a partnership for tax purposes. In response to this favorable ruling, several states began considering legislation. Currently more than 35 states have enacted limited liability company statutes.

Summary: The act creates a new chapter of law and authorizes the formation of a new type of business in Washington, the limited liability company.

GENERAL PROVISIONS: Definitions of many terms related to limited liability companies are provided. "Limited liability company" is defined as any company organized and existing under the new chapter. "Foreign limited liability company" is defined as an unincorporated entity organized under the laws of another state or foreign country which affords the members of the entity limited liability with respect to the entity's liabilities. "Limited liability company agreement" is defined as "any written agreement as to the affairs of a limited liability company and the conduct of its business which is binding upon all of the members."

Restrictions on the naming of limited liability companies are provided, along with detailed provisions concerning maintenance of a registered office and registered agent to receive service of process.

The powers of a limited liability company include any lawful business or activity except for banking or insurance. The powers of a limited liability company can be restricted in the limited liability company agreement.

A limited liability company agreement may eliminate or limit the personal liability of a member or manager to the limited liability company or its members. This limitation on liability may cover monetary damages for conduct as a member or manager. It may also provide for indemnification of members or managers from and against any judgments, settlements, penalties, fines or expenses incurred in a proceeding to which a member or manager is a party due to his or her status as a member or manager. The company agreement may not provide limited liability or indemnification of members or managers for acts or omissions involving intentional misconduct or involving a knowing violation of the law for certain transactions. Those transactions include ones from which the member or manager will personally receive a benefit to which the member or manager is not legally entitled, ones involving distributions that cause the limited liability company to be unable to pay its debts, or ones for distributions made when other liabilities exceed the assets of the limited liability company. The doctrine of piercing the veil is expressly made applicable to limited liability companies in situations analogous to those in which it applies to Washington corporations.

The duties and liabilities of members or managers may be expanded or restricted in the limited liability company agreement, and members or managers are not liable to the limited liability company or other members or managers for good faith reliance on the provisions of the limited liability company agreement.

The formation of limited liability companies to render professional services is generally allowed. Members of a professional limited liability company may include a professional corporation or another professional limited liabil-

ity company, if the shareholders and officers of the corporation, or the members of the limited liability company, are licensed to render the same specific professional services. Professional service limited liability companies may include out-of-state members so long as managers in this state and all members practicing in this state are licensed in this state. Members of a professional service limited liability company are personally liable to the extent the company fails to maintain professional liability insurance of $1 million, or such greater amount as the state insurance commissioner may set.

FORMATION: A limited liability company is formed when a certificate of formation is filed with the Secretary of State. The certificate of formation must vest management in one or more managers if the limited liability company is not to be managed by the members. Detailed procedures for the formation, execution, amendment, or cancellation of the certificate of formation are provided.

Limited liability companies are required to file annual reports with the Secretary of State in a manner equivalent to the reports required of corporations.

MEMBERS: Classes or groups of members and voting requirements by class may be established in the company agreement. Unless the company agreement provides otherwise, actions requiring member approval require the affirmative vote of members contributing, or required to contribute, 50 percent of the agreed value of the contributions made, or required to be made, by all members. A unanimous vote is required, unless otherwise provided in the company agreement, for amending the company agreement, or authorizing a member or manager to act outside the company agreement.

The debts, obligations, and liabilities of the limited liability company, whether arising from tort or contract, are solely the debts, obligations, and liabilities of the limited liability company, and no member or manager is personally liable solely by reason of being a member or manager. A member or manager is liable for his or her own tortious conduct.

A detailed list of events of dissociation is provided, including the withdrawal of a member, the assignment of all of a member's interest, or the removal of a member. The company agreement can provide for any other events that result in a person ceasing to be a member.

The following records and information must be kept at the principal place of business and must be available for inspection and copying upon reasonable request by any member during ordinary business hours: certificate of formation, company agreement and amendments, statement of contributions made and to be made by all members, distribution rights, and tax returns and financial statements for the previous three years.

MANAGEMENT: Management of the limited liability company is vested in the members unless the certificate of formation provides otherwise. The company agreement may restrict or enlarge the management rights and duties of members as managers. Unless otherwise provided in the company agreement, managers are selected by the affirmative vote of members contributing, or required to contribute, 50 percent or more of the agreed value of the contributions made or to be made. If the certificate of formation vests management in managers, a member cannot act as an agent of the limited liability company.

Unless otherwise provided in the company agreement, members and managers are not liable in damages or otherwise to the limited liability company or its members for any act or omission unless the act or omission constitutes gross negligence, intentional misconduct, or a knowing violation of the law. Members and managers must account to the limited liability company for any profit or benefit derived without the consent of a majority of disinterested members or managers from transactions connected with the conduct or winding up of the limited liability company, or any use of limited liability company property.

Voting by managers requires approval by 50 percent of the number of managers, unless the company agreement allows for voting by class, group, financial interest, or any other basis. The company agreement can provide classes or groups of managers with relative rights, powers, and duties.

Any member or manager is entitled to rely in good faith upon the records of the limited liability company and upon information, opinions, reports or statements presented to the limited liability company by members, managers, officers, employees, or other persons, as to matters the member or manager reasonably believes to be within the person's expert or professional competence.

FINANCE: Member contributions may be in the form of cash, property, services rendered, or promissory note, or other obligation to contribute. Unless otherwise provided in the company agreement, members are obligated to the limited liability company to perform any promise to contribute cash, property or services, even if unable to do so because of death, disability, or any other reason. The obligation of a member to make a contribution or return money or property distributed wrongly may be compromised only by consent of all members. However, a creditor who reasonably relied on the obligation in extending credit may enforce the original obligation.

Allocation of profits and losses are made according to company agreement. If the company agreement does not specify the means of allocation, then allocations are made in proportion to the agreed value of contributions made or required by each member.

DISTRIBUTIONS AND RESIGNATION: A member may receive distributions prior to dissociation and dissolution as provided in the company agreement. Upon dissociation, a member is entitled to receive distributions already allocated or the fair value of the member's interest in the limited liability company. Distributions may not be made if they would cause the limited liability company to be unable to pay its debts as they become due or when all

liabilities, other than members' allocations, exceed the fair value of the assets of the limited liability company. Members who receive distributions in knowing violation of these restrictions are liable to the limited liability company for the distribution if an action is commenced within three years.

ASSIGNMENT OF LIMITED LIABILITY COMPANY INTERESTS: A member's interest is assignable, except as provided in the company agreement. The assignee is entitled to the same allocations and distributions as the assignor, but has no right to participate in management unless all other members approve or as otherwise provided in the company agreement. Various events constituting an assignment of a member's interest are provided. No liability attaches to an assignee until the assignee becomes a member. An assignee who becomes a member is liable for the obligations of his or her assignor to make contributions.

DISSOLUTION: Events resulting in dissolution of a limited liability company are provided. Upon the winding up of a limited liability company, the assets shall be distributed as follows: (1) to creditors, including members and managers who are creditors, in satisfaction of liabilities; (2) to members in satisfaction of distributions; and (3) to members for contributions, and then for members' interests, in proportion to the members' shares in distributions.

FOREIGN LIMITED LIABILITY COMPANIES: Foreign limited liability companies are required to register with the Secretary of State and maintain a registered office and registered agent. The laws under which a foreign limited liability company is organized govern its organization, internal affairs, and liability of members and managers. Registration cannot be denied because of a difference in those laws.

The failure of a foreign limited liability company to register does not impair the validity of any contract entered into, right of any party to a contract to maintain a suit, or prevent the foreign limited liability company from defending against any suit brought against it, but prevents them from maintaining an action in the courts of the state. Members or managers of foreign limited liability companies are not liable simply by doing business in the state without being registered. A list of activities that are considered "transacting business" is provided.

DERIVATIVE ACTIONS: A member may bring an action on behalf of a limited liability company if managers or members with authority to do so have refused to bring the action, or an effort to cause them to bring an action is not likely to succeed. The member must be a member at the time of bringing the action and at the time of the transaction complained of.

MERGERS' AND DISSENTERS' RIGHTS: A limited liability company may merge with one or more limited partnerships, corporations, or other limited liability companies pursuant to a merger plan. The plan must set forth the names of all merging companies and the surviving company, terms and conditions of merger, and the manner and basis of converting of the interests. Approval of the merger plan requires the affirmative vote of members contributing 50 percent or more of the value of all contributions. Details concerning the filing and effects of merger are provided. Merger of foreign and domestic limited liability companies, limited partnerships, and corporations is allowed.

A member of a limited liability company may dissent from a merger plan and obtain payment of the fair market value of the member's interest in the limited liability company. A dissenter may not challenge a merger unless the merger fails to comply with the procedural requirements imposed by this article, or with the company agreement, or is fraudulent with respect to the member or limited liability company. Detailed rules concerning notice requirements and payment demands are provided.

MISCELLANEOUS PROVISIONS: The rule that statutes in derogation of the common law are to be strictly construed does not apply to this chapter. The policy of the chapter is to give maximum effect to the principle of freedom of contract and the enforceability of limited liability company agreements. The Secretary of State has authority to adopt rules necessary to implement the transfer of duties and records required by this chapter.

The licensing statute for certified public accountants is amended to allow members of that profession to organize as a limited liability company. A similar general provision is made applicable to all other licensed professions.

Votes on Final Passage:

House	91	0	
Senate	46	3	(Senate amended)
House	87	0	(House concurred)

Effective: October 1, 1994

SHB 1339

C 10 L 94

Appointing court commissioners in municipal court.

By House Committee on Judiciary (originally sponsored by Representatives Pruitt, R. Meyers, Brumsickle, Zellinsky and Schmidt).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Two separate chapters of law provide optional methods for the creation of Municipal Courts in cities or towns of under 400,000 population. Under one of these chapters (3.46 RCW), Municipal Courts are a part of the District Court in which the city wishing to create a Municipal Court is located. Judges of these Municipal Courts are judges of the District Court. Under the other chapter (3.50 RCW), the Municipal Court is a separate entity created by a city and is independent of the District Court.

Under either chapter, a city may decide whether to elect or appoint judges, and Municipal Courts have exclusive jurisdiction over matters arising under city ordinances.

Cities of under 400,000 population that choose to have a Municipal Court may operate under either of these two chapters. The city of Seattle, as the only city in the state over 400,000 population, must operate a Municipal Court under yet another chapter (35.20 RCW).

District Courts may employ "court commissioners" to perform the duties of judges. Municipal Courts operating under chapter 3.46 RCW are expressly authorized to appoint court commissioners. One or more of these commissioners may be appointed in each court. A commissioner must be a resident of the county in which the court is located and must be either an attorney or a person who has passed a qualifying exam for lay judges prepared by the Supreme Court. A commissioner serves at the pleasure of the appointing District Court judge and has such jurisdiction over criminal and civil matters as the judge may confer.

There is no express authority for Municipal Courts organized under chapters 3.50 RCW or 35.20 RCW to appoint court commissioners.

Summary: A judge of a Municipal Court organized under chapter 3.50 RCW may appoint one or more court commissioners. A commissioner holds office at the pleasure of the appointing judge. If the commissioner is given authority to hear or dispose of cases, the commissioner must be either a lawyer or a person who has passed the qualifying exam for lay judges.

Neither a commissioner nor a part-time appointed judge in a court without a commissioner needs to be a resident of the city or county in which the court is located.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: June 9, 1994

2SHB 1457

C 212 L 94

Raising the minimum dollar amount requiring competitive bidding by school districts.

By House Committee on Education (originally sponsored by Representatives Peery, Dorn, Brough, Brumsickle, Chappell, Leonard, Jones, Pruitt, Ogden, Basich, Rayburn, Karahalios, G. Cole, Springer, Locke, Eide, Mastin, Cothern, G. Fisher, Morris and H. Myers).

House Committee on Education
Senate Committee on Education

Background: A school district may make improvements or repairs to district property through the district's shop and repair department when the total cost does not exceed $7,500. A school district must engage in a competitive bid process for purchases (excluding books), building improvements or repairs, or other projects costing or estimated to cost more than $7,500.

For every purchase (excluding books) costing or estimated to cost from $7,500 to $20,000, the school board must secure quotations for the purchases from at least three sources and must record the quotations for public perusal.

The school board may award a building, improvement, repair or other public works project costing or estimated to cost from $7,500 to $20,000 to a contractor on the small works roster following a limited competitive bidding process. The small works roster consists of all responsible contractors who have asked to be on the list.

For any purchase (excluding books) or project estimated to cost at least $20,000, an enlarged competitive bidding process must be followed. The process includes notice by newspaper publication, the preparation of complete plans and specifications, and provision of the opportunity to examine specifications and other information.

Summary: The $7,500 ceiling on the cost of projects before a competitive bidding process must be used is raised to $15,000 for districts with 15,500 or more students. For districts with less than 15,500 students, the limits are $15,000 if more than one craft or trade is involved, and $10,000 for single craft or trade projects.

The $7,500 ceiling on purchases before a competitive bidding process must be used is raised to $15,000.

The $20,000 ceiling on the use of a limited competitive bidding process is raised to $50,000.

Purchases (excluding books) or projects estimated to cost at least $50,000, require the enlarged competitive bidding process.

Votes on Final Passage:

House	86	4	
Senate	33	15	(Senate amended)
House	66	21	(House concurred)

Effective: June 9, 1994

HB 1466

C 104 L 94

Regulating motorized wheelchair warranties.

By Representatives Jacobsen, Wang, Ludwig, G. Cole and Romero.

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

Background: Washington has a motor vehicle lemon law, which requires a motor vehicle manufacturer to replace or repurchase a nonconforming new motor vehicle if the manufacturer is unable to correct the nonconformity after a reasonable number of attempts.

Other than implied warranties under the Uniform Commercial Code, there is no law that warrants new motorized wheelchairs. Wisconsin is the only state that has a motorized wheelchair lemon law.

Summary: Motorized wheelchair manufacturers are required to furnish at least a one year express warranty to motorized wheelchair consumers. If a manufacturer fails to provide a one year warranty, the motorized wheelchair is covered by an implied warranty. After a reasonable attempt to repair a nonconforming wheelchair, the manufacturer must either replace the nonconforming new motorized wheelchair or make a refund. A refund includes the full purchase price plus finance charges, amount paid by the consumer at the point of sale, and collateral costs, less a reasonable allowance for use. A "reasonable attempt to repair" means either four or more attempts to correct a nonconformity or the motorized wheelchair is out of service for at least 30 days because of a nonconformity. The reasonable attempt to repair must occur within the warranty period or within one year of delivery of the motorized wheelchair. "Nonconformity" means a condition or defect covered by an express warranty that substantially impairs the use, value, or safety of a motorized wheelchair.

Votes on Final Passage:

House	92	0	
Senate	46	0	(Senate amended)
House			(House refused to concur)
Senate	45	0	(Senate receded)

Effective: June 9, 1994

2ESHB 1471

C 260 L 94

Regulating the non-Puget Sound coastal commercial crab fishery.

By House Committee on Appropriations (originally sponsored by Representatives King, Basich, Orr, Fuhrman, Brumsickle, Foreman and G. Cole).

House Committee on Fisheries & Wildlife
House Committee on Appropriations
Senate Committee on Natural Resources

Background: Dungeness crab fishing in Washington occurs in Puget Sound, along the Washington coast including Grays Harbor and Willapa Harbor, and in the ocean beyond three miles from the shore. The Department of Fisheries (WDF) regulates the crab fishery inside Washington waters and requires a crab pot license. The state does not regulate the fishery outside of state waters, i.e., beyond three miles from the shore. A nonsalmon delivery license is required of persons landing crab in Washington, whether the crab are harvested within or outside of Washington waters.

In 1980, in response to an increasing commercial crab fishery in Puget Sound, the Legislature limited entry into the Dungeness crab fishery in the sound by imposing landing requirements on vessels which could remain in the fishery. The maximum number of participating vessels in the fishery was set at 200.

In 1992, in response to concerns about overcapitalization in the coastal crab fishery, the Legislature directed WDF to participate in a coast-wide study of the Dungeness crab fishery, conducted by the Pacific States Marine Fisheries Commission, to report on the current and optimum numbers of fishers, vessels, licenses and gear in the coastal crab fishery of each state, and on the pros and cons of establishing future limits on the issuance of coastal crab licenses. This study, including recommendations, was presented to the Legislature in October 1993.

Summary:

Qualification for Dungeness-Crab Coastal Fishing Licenses. A Dungeness crab coastal fishery license and a Dungeness crab coastal class B fishery license are created, replacing the existing crab pot license. Beginning January 1, 1995, a person must hold one of these two types of licenses in order to fish for Dungeness crab in the state's coastal waters. Holders of such licenses may also land crab in Washington.

In order to qualify for a transferable Dungeness crab coastal fishery license, a person must have designated on the qualifying license, after December 31, 1993, a vessel that meets the following criteria:

(1) Made a minimum of eight crab landings totalling 5,000 pounds per season in two of four qualifying seasons and held (or the person held, if after December 31, 1993) one of the qualifying licenses each year beginning 1990 through 1994; or

(2) Made a minimum of four landings totalling 2,000 pounds of coastal crab between December 1, 1991 and March 20, 1992, and made eight crab landings totalling 5,000 pounds each season between December 1, 1991 and September 15, 1994.

A Dungeness crab coastal class B fishery license is non-transferable and ceases to exist after December 31, 1999. In order to qualify for this license, a person must have designated, after December 31, 1993, a vessel on the qualifying license that meets the following criteria:

(1) Made a minimum of four landings totalling 2,000 pounds of coastal crab during at least one qualifying season; and

(2) Held one of the qualifying licenses each calendar year since the initial qualifying season through 1994.

All Dungeness crab coastal class B fishery licenses expire after December 31, 1999. The holder of a dungeness crab coastal class B license may not fish for crab after that date, even if the holder seeks administrative review of the license expiration.

The four qualifying seasons are each season between December 1, 1988 and September 15, 1992. The qualify-

ing licenses are: crab pot-non Puget Sound, nonsalmon delivery, salmon troll, salmon delivery, food fish trawl and shrimp trawl, or their equivalents.

Future Issuance of Licenses. After December 31, 1995, no new Dungeness crab coastal fishery licenses may be issued. However, an existing license may be renewed if the person seeking renewal held the license during the previous year or acquired the license by transfer from someone who held it during the previous year. If the person did not hold the license during the previous year because of a license suspension, the person may renew the license if the license was held during the year prior to the year of the suspension.

Qualification for Landing Dungeness Crab in Washington. A holder of a Dungeness crab coastal or Dungeness crab coastal class B fishery license may land Dungeness crab in Washington.

A person who does not hold a Dungeness crab coastal fishery license may land crab in Washington between December 1 and February 15 if:

(1) The director of the Washington Department of Fish and Wildlife (DFW) determines that such landings are in the best interest of the coastal crab processing industry;
(2) Three Dungeness crab processors have requested that such landings be allowed;
(3) The person obtains a Dungeness crab offshore delivery license;
(4) The person is commercially licensed to fish for crab by the states of Oregon and/or California;
(5) The crab is caught in offshore waters; and
(6) Allowing such landing improves the economic stability of the commercial crab fishery, as determined on a case-by-case basis.

A person who does not hold a Dungeness crab coastal fishery license may land crab in Washington between February 15 and September 15 if:

(1) The person is commercially licensed to fish for crab by the states of Oregon and/or California;
(2) The person obtains a Dungeness crab offshore delivery license; and
(3) The crab is caught in offshore waters.

The annual fee for a Dungeness crab offshore delivery license is $250.00. Fees are deposited in the Coastal Crab Account.

Gear. Gear used to fish for Dungeness crab in Washington waters or to land crab in Washington must consist of one buoy attached to each crab pot. Each crab pot must be fished individually.

Reciprocity with Oregon. If a reciprocal law is enacted in Oregon, an Oregon resident is eligible for a Dungeness crab coastal fishery license valid for fishing in Washington state waters north from the Oregon-Washington boundary to United States latitude 46 degrees 30 minutes north, if that person meets the following criteria:

(1) Held a nonresident non-Puget Sound crab pot license each year from 1990 through 1994; and
(2) Delivered a minimum of eight landings totalling 5,000 pounds of crab into Oregon during any two of the four qualifying seasons.

Vessel Designations and Substitutions. Limitations on vessel designations and substitutions for Dungeness crab coastal and Dungeness crab coastal class B fishery licenses are as follows:

(1) No license holder may designate a vessel exceeding 99 feet in hull length;
(2) A license holder may only designate a different vessel on the license once every two consecutive crab seasons if vessels are of comparable hull length;
(3) A license holder may only designate a different vessel on the license once every five consecutive crab seasons if the vessel proposed to be designated exceeds the length of the currently designated vessel by up to 10 feet;
(4) A license holder may designate a different vessel outside of the time frequency limits in an emergency situation if an emergency situation exists.

Alternate Operators. Alternate operators are not permitted on Dungeness crab coastal class B fishery licenses.

Appeals Surcharge. A surcharge of $50.00 is to be collected with each Dungeness crab coastal fishery license until June 30, 2000 and with each Dungeness crab coastal class B fishery license until December 31, 1997. The funds are placed into a dedicated, non-appropriated account to fund processing of appeals related to coastal crab licenses.

Transfer Fee. Twenty percent of the proceeds of the sale of transferable Dungeness crab coastal fishery licenses are to be deposited in the Coastal Crab Account.

License Buyback Program. A surcharge of $250.00 shall be collected with each Dungeness crab coastal and Dungeness crab coastal class B fishery license issued in 1995 and 1996. The revenues shall be placed in the Coastal Crab Account, and shall be used to purchase Dungeness crab coastal class B fishery licenses from willing sellers. The price for a license purchased in 1995 shall not exceed $5,000, and the price of a license purchased in 1996 shall not exceed $3,500.

Coastal Crab Account. The non-appropriated coastal crab account is created in the custody of the state treasurer. Expenditures from the account through 1996 are for class B license purchases by the Department of Fish and Wildlife (DFW). Expenditures after 1996 are for coastal crab resource management by the DFW.

Reciprocity in the Exclusive Economic Zone. If reciprocal legislation is enacted in Oregon and California, it is unlawful to take Dungeness crab in the waters of the exclusive economic zone west of the states of Oregon or California and to land crab taken in those waters unless the licensee also holds the licenses required by Oregon or California to land crab in those states.

Adding New Licensees to the Fishery. If less than 175 persons are eligible for Dungeness crab coastal fishery licenses, the director of DFW may accept applications for

new licenses and maintain the number of licenses at a maximum of 175.

Advisory Review Board. The director of the DFW is required to appoint a three member advisory review board to hear cases involving the Dungeness crab coastal fishery licenses. The director is authorized to reduce the landing requirements for these licenses if recommended by the board, based on extenuating circumstances. Extenuating circumstances may include situations in which a person had a vessel under construction such that qualifying landings could not be made.

Gear Reduction Plan. The DFW is directed to prepare a resource plan to achieve long term stability of the coastal Dungeness crab resource. The plan is to be submitted to the appropriate committees of the Legislature by December 1, 1995.

Votes on Final Passage:

House	93	2	
Senate	41	6	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	42	0	
House	93	2	

Effective: January 1, 1995
January 1, 1997 (Section 8)
June 9, 1994 (Sections 6, 7 and 20)

SHB 1561

C 99 L 94

Studying whether preschools should be regulated like agencies that care for children, expectant mothers, and developmentally disabled people.

By House Committee on Human Services (originally sponsored by Representatives Brown, Wolfe, Thibaudeau, Mastin, J. Kohl, H. Myers, Johanson, Romero, Leonard, Karahalios and L. Johnson).

House Committee on Human Services
Senate Committee on Health & Human Services

Background: Agencies that receive children, expectant mothers, or persons with developmental disabilities for care, control or maintenance outside their homes are licensed by the Department of Social and Health Services. These agencies include child-placing agencies, maternity services, day-care centers, foster-family homes, and crisis residential centers.

However, nursery schools and kindergartens which are primarily engaged in educational work with preschool children for less than four hours a day are exempted from the requirements of licensure as child care agencies.

Educational programs and facilities for preschool children are provided by both public and private providers. Public providers funded through the Early Childhood Assistance Program are subject to rules adopted by the Department of Community Development. Private providers may choose to be accredited by the Office Superintendent of Public Instruction.

Summary: The Child Care Coordinating Committee is required to develop a phase-in strategy with specific recommendations involving programs serving preschool children, and to report to the Legislature by December 1, 1994.

Votes on Final Passage:

House	69	23
Senate	40	6

Effective: June 9, 1994

ESHB 1652

PARTIAL VETO

C 261 L 94

Enhancing penalties for animal cruelty.

By House Committee on Judiciary (originally sponsored by Representatives Romero, G. Cole, Valle, Orr, Cothern, Brown, Veloria, Holm, Zellinsky, Scott, Brough, Jones, R. Meyers, Dorn, Quall, Van Luven, Roland, L. Johnson, Long, Johanson and Anderson).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: The state's animal cruelty chapter contains an assortment of provisions defining crimes and powers of enforcement. Many of the statutes originated several years ago and have not been updated to reflect current enforcement practices and concepts of criminal behavior.

Under current law, "animal" includes every living creature except man. The general cruelty to animals provision provides that cruelty to animals is a misdemeanor. The general provision contains a long list of prohibited acts ranging from overworking, torturing, beating, mutilating or killing an animal, to depriving an animal of necessary sustenance and shelter. Although the statute covers a broad range of cruel behavior to any animal, a plethora of other provisions govern specific acts against specific types of animals. Penalties for those violations include misdemeanors, gross misdemeanors and one class C felony.

The class C felony, malicious mischief in the second degree, only protects a specific list of large mammals. A limitation to listing specific animals is the inability to charge a crime if the type of animal that was cruelly treated is not included in the list.

Current law also contains several express exemptions from the animal cruelty provisions.

Humane societies organized under the act may enforce the chapter under certain circumstances. Authorized humane society officers may make arrests or cause law enforcement officers to make arrests; they may carry weapons, obtain and execute search warrants, and prose-

cute cases involving animal cruelty. Humane society officers do not have express statutory authority to seize an abused or neglected animal without a warrant. Law enforcement officers may seize animals without a warrant under limited circumstances.

Summary: The animal cruelty chapter is substantially revised.

(1) DEFINITIONS.

Terms are defined and principles of liability are stated. "Animal care and control agencies" means any city or county animal control agency authorized to enforce city and county ordinances prohibiting animal cruelty, and humane societies that are under contract with the city or county to enforce those laws.

(2) ENFORCEMENT POWERS.

Law enforcement agencies may enforce the state law. Animal care and control agencies may only enforce the state law if they contract with the county to enforce them.

Animal control officers' powers are restricted or modified as follows: They may not arrest offenders, carry firearms or prosecute violations of the chapter. They still may prepare affidavits to obtain search warrants but may only execute search warrants when accompanied by law enforcement officers. They are held to the same standards of enforcement that are imposed on law enforcement officers who enforce other criminal laws, including the requirement that they proceed on the basis of probable cause.

Law enforcement officers and animal control officers may seize an animal with a warrant if the officers have probable cause to believe that an owner of an animal has violated the chapter and no responsible person can be found to assume the animal's care. The officer must make a good faith attempt to contact the owner before removal. An officer may seize an animal without a warrant only if the animal is in an immediate life-threatening condition.

The procedure for the owner to contest seizure of an animal is refined. Notice of the seizure must be given to the owner by posting it at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail. A procedure is developed and refined to contest the seizure and to obtain the animal's return.

(3) HUMANE SOCIETY OFFICERS: APPOINTMENT, TRAINING AND JUDICIAL AUTHORIZATION.

Current law is restated describing the method of appointing humane society officers. This provision makes the following clarifications and changes to current law: (1) Current law is clarified to provide that humane society officers may only enforce the law in the county in which the officer has obtained judicial authorization and then only if the humane society that appoints the officer is under contract with the county or city; (2) appointees seeking judicial authorization on or after the effective date of the act must satisfy the court that they are trained to assume the powers of animal control officers; and (3) an officer who is already judicially authorized to act as a humane society officer must obtain training or satisfy the judge that he or she has sufficient experience to enforce the law when the officer has to obtain re-authorization at the expiration of his or her term.

(4) CRIMES.

(a) Animal cruelty in the first degree.

The new crime of animal cruelty in the first degree is established. A person is guilty of animal cruelty in the first degree if the person intentionally inflicts substantial pain on an animal, causes physical injury to an animal, kills an animal by causing undue suffering, or forces a minor to inflict unnecessary pain, injury or death on an animal.

Animal cruelty in the first degree is a class C felony.

(b) Animal cruelty in the second degree.

A person is guilty of animal cruelty in the second degree if the person knowingly, recklessly, or with criminal negligence, inflicts unnecessary suffering or pain on an animal under circumstances not amounting to animal cruelty in the first degree.

An owner of an animal is also guilty of animal cruelty in the second degree if the owner knowingly, recklessly, or with criminal negligence, fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or, abandons the animal.

The defendant may establish an affirmative defense to animal cruelty in the second degree by a preponderance of the evidence that the defendant's failure was due to economic distress beyond the defendant's control.

Animal cruelty in the second degree is a misdemeanor.

(c) Other crimes.

Other crimes concerning animal fighting, poisoning animals, or using animals as bait are amended to correspond to the general animal cruelty provisions. Some existing crimes are repealed as obsolete or duplicative or in conflict with the new crimes. The provision that prohibits cutting off more than one-half of an animal's ear is amended to add dogs to the list of protected animals and to provide that the provision does not apply if cutting off more than one half of the ear is a customary husbandry practice.

(5) PENALTY PROVISIONS.

Penalty provisions are changed as follows:

A person convicted of a violation of the chapter is liable to law enforcement agencies and animal control agencies for the reasonable expenses of investigating the case and caring for the animal, or euthanizing or adopting the animal.

The civil penalty which a convicted offender must pay to the county is increased from $100 to $1,000. The money must be used to prosecute animal cruelty cases and to care for forfeited animals.

As a condition of the sentence, the judge may also order the defendant to obtain treatment. This requirement applies to both adult and juvenile offenders.

(6) RAILROAD COMPANY FINES.

The fine which a railroad company must pay for transporting animals in railroad cars without sufficient rest periods, food and water is increased from $100 to $1000.

(7) EXEMPTIONS FROM THE STATUTE.

Private and public research facilities are added to the list of entities and activities exempt from the chapter. A person may use rodent or pest poison to destroy rodents and pests. The terms "rodents" and "pests" are defined. The chapter does not apply to the customary use or exhibiting of animals in normal and usual events at fairs. A person may kill a bear or a cougar that is reasonably perceived to be an unavoidable threat to human life. A property owner may also trap or kill other animals that are threatening human life.

(8) MISCELLANEOUS AMENDMENTS AND REPEALERS.

Inconsistent, duplicative or obsolete statutes are repealed.

Votes on Final Passage:

House	95	2	
Senate	42	5	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	41	1
House	94	2

Effective: June 9, 1994

Partial Veto Summary: A provision that expressly provided that a person may kill a bear or cougar reasonably perceived to be an unavoidable and immediate threat to human life is stricken. A similar provision that expressly authorized owners or tenants of real property to trap or kill wild animals, other than endangered species, that threaten human life, including cougars and bears, is stricken. The rationale for the veto is that the defense of necessity already exists; the change created a subjective defense and technical problems.

VETO MESSAGE ON HB 1652-S

April 1, 1994

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 21, Engrossed Substitute House Bill No. 1652 entitled:

"AN ACT Relating to animal cruelty;"

Engrossed Substitute House Bill No. 1652 provides for a comprehensive overhaul of animal cruelty statutes. A broad spectrum of interest groups participated in the development of this legislation, from animal rights advocates to cattlemen and hunters. While I support the effort to modernize and improve outdated statutes, I am opposed to sections 20 and 21 of this act.

Section 20 provides that a person may kill a bear or a cougar "reasonably perceived" to be an unavoidable and immediate threat to human life. While I support the ability of anyone to take action against animals threatening human life, the defense of necessity is already available in legitimate cases. To broaden the language to "reasonably perceived" sets up a subjective defense and could cause prosecutorial problems. For this reason, I am vetoing section 20.

Section 21 attempts to expand the authority to kill cougars or bears threatening human life. However, the language as passed would not allow a person to kill or trap endangered species if they were threatening human life. Since the defense of necessity already exists, I am vetoing section 21.

With the exception of sections 20 and 21, Engrossed Substitute House Bill No. 1652 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 1743

C 248 L 94

Providing for pollution prevention plans.

By House Committee on Environmental Affairs (originally sponsored by Representatives Flemming, Horn, Rust, Linville, Valle and J. Kohl.)

House Committee on Environmental Affairs
Senate Committee on Ecology & Parks

Background: The Department of Ecology issues permits, conducts inspections, approves plans, and exercises other regulatory control over activities in this state that have an impact on the environment. Many of the department's activities are governed by statutes that do not recognize the existence of other requirements. It is important that the department coordinate its activities.

The federal Clean Water Act requires a waste water discharge permit for any water discharge from a facility. The department was delegated authority to administer the permit in 1973. The permit establishes specific limits on the amount of contaminants in the discharge as well as other restrictions. Dischargers must monitor their discharge and report on permit compliance. The department performs periodic inspections to ensure compliance with permit conditions. Permits are issued for a period of five years. The permitting process involves several documents. Dischargers must submit a detailed application describing the nature and amount of their discharge. The department must prepare fact sheets, draft permits, and final permits. The permitting process also provides numerous opportunities for public participation.

Summary: To expedite agency permits and other regulatory activities, the Department of Ecology is directed to establish two pilot programs and a study.

One pilot project directs the department to coordinate all the department's regulatory actions that affect selected facilities. By January 1, 1995, the department must designate an industry type and up to 10 facilities to participate in the program. The selection of the industry and facilities must be based on criteria relating to their potential to serve

as a model for pollution prevention and multimedia environmental programs. Participation in the program is voluntary. The program must also examine the feasibility of developing facility-wide permits covering all the permits issued by the department. By January 1, 1996, the department must submit to the Governor and the Legislature a report evaluating the pilot program and the feasibility of facility-wide multimedia permits.

The other pilot project requires the department to allow up to 10 industries to combine all waste water discharge permit documents into a single document, if approved by the Environmental Protection Agency. The department must establish criteria for selecting industries eligible for the program and develop guidelines for judging the completeness of the permit document. The department must submit an interim report to the Legislature in July 1995 and a final report by December 1996. The pilot program is not intended to: allow additional rule-making, reduce staff involved in administering permits, increase permit fees paid by other industries, or affect existing regulatory authority.

The department is also required to conduct a study to evaluate the feasibility and cost-effectiveness of allowing private contractors to perform inspections to verify compliance with waste discharge permits. The department must report its findings to the Legislature by December 1, 1994.

The department may proceed with the pilot programs and the study if they are not in conflict with federal requirements. If a program or study is in conflict, only the conflicting program or study is inoperative.

Votes on Final Passage:

House	94	0	
Senate	45	0	(Senate amended)
House			(House concurred in part; refused to concur in part)
Senate			(Senate refused to recede)
Conference Committee			
Senate	45	1	
House	94	0	

Effective: June 9, 1994

EHB 1756

C 157 L 94

Requiring the use of licensed or certified electricians for certain purposes.

By Representatives Veloria, Brumsickle and Casada.

Senate Committee on Labor & Commerce

Background: Under Washington law, electrical work must be performed by an electrician who has a certificate of competency from the Department of Labor and Industries unless an exemption applies to the work. The exemptions include work (1) being done on a person's own residence, farm, place of business, or other property owned by the person, or (2) being performed by the property owner or by employees on the premises of their employer.

Summary: The exemption from the requirement for a person to obtain a license or a certified electrician to do electrical work on his or her own residence, farm, place of business, or other property owned by the person does not apply if the electrical work is on the construction of a new building intended for rent, sale, or lease. However, if the construction is of a new residential building of up to four units, the owner may obtain an exemption by signing an affidavit that he or she will perform the work and will live in one of the units as a principal residence. This exemption may not be obtained more than once every two years.

The exemption for work being performed by the property owner or by employees on the premises of their employer does not apply if the electrical work is on the construction of a new building intended for rent, sale, or lease.

Votes on Final Passage:

House	96	0	
Senate	25	22	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	28	17	
House	96	0	

Effective: June 9, 1994

ESHB 1847

C 106 L 94

Enacting the Vision Care Consumer Assistance Act.

By House Committee on Health Care (originally sponsored by Representatives Ludwig, Dyer, Jones, Kremen and Rayburn).

House Committee on Health Care
Senate Committee on Health & Human Services

Background: The provision of vision care services in this state is within the scope of practice of three licensed health professions: ophthalmologists, who are physicians specializing in eye care, including surgery, and who write prescriptions for eye glasses and contact lenses; optometrists, who specialize in providing corrective eye care, mainly by prescribing and providing eye glasses and contact lenses, and opticians, who are technicians making and fitting eye glasses and contact lenses, but only upon a prescription written by an ophthalmologist or optometrist. Optometrists and ophthalmologists fill prescriptions as well as write them, but the overwhelming majority of contact lens prescriptions are filled by optometrists.

The law does not require optometrists to release prescriptions for contact lenses to patients who may prefer to

have them filled by opticians or ophthalmologists. Federal Trade Commission rules require eye glass prescriptions to be released to patients, but leaves to the states the question of the release of contact lens prescriptions.

Summary: There is a declaration of legislative intent to clarify the roles of vision care providers in order to control costs and to maximize patient access to eye care services.

Definitions are provided. "Fitting" of contact lenses includes: mechanical procedures and measurements necessary to adapt eyeglasses and contact lenses from a written prescription; selection of physical characteristics of the lenses; and conversion of spectacle power to contact lens equivalents. "Prescription" is a written directive for corrective lenses and refractive powers. A prescription for contact lenses must include a notation that the patient is "OK for contacts" absent contraindications. A "prescriber" is an optometrist or ophthalmologist.

Prescribers are prohibited from: (1) not giving the patient the prescription at the completion of the eye examination; (2) conditioning the eye exam or prescription on a requirement that the patient purchase eye wear from the prescriber; (3) not indicating "OK for contacts" on the prescription, absent any contraindications, if contact lenses are requested by the patient; (4) including on the prescription an expiration date shorter than two years; (5) charging the patient a fee for releasing the prescription; and (6) waiving liability for accuracy of the eye exam. The act is not intended to impose liability on an ophthalmologist or optometrist for ophthalmic goods dispensed by others.

If the patient wishes to buy contact lenses from an optician, and the prescription is silent as to the suitability of contacts, the optician must request of the prescriber a written prescription regarding contacts. However, if the prescriber did not do an evaluation for contacts during the patient's examination, the prescriber need not perform such an evaluation or approve a prescription for contacts.

The optician is required to advise the patient in writing to obtain a verification of contact lens performance by a prescriber. A prescriber or optician who provides contacts must inform the patient that the initial fitting and follow-up must be done within six months or the contact lens prescription is void.

Prescriptions for contact lenses are valid for two years.

Fitters and dispensers of contact lenses must distribute eye safety pamphlets to patients.

Violations of this act are considered unprofessional conduct under the Uniform Disciplinary Act.

Nothing in these provisions is to be construed as an expansion of a scope of practice.

The secretary of the Department of Health is required to adopt rules implementing these provisions, including any that would maximize competition among vision care providers absent demonstrable threats to the public health. These rules will supersede any conflicting rules adopted pursuant to optician, optometry, and physician practice laws, and the secretary may declare such conflicting rules null and void.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: June 9, 1994

SHB 1928

C 158 L 94

Providing for more comprehensive regional transportation planning.

By House Committee on Transportation (originally sponsored by Representatives R. Fisher, Quall, Locke, Roland and Johanson).

House Committee on Transportation
Senate Committee on Transportation

Background: The 1990 Growth Management Act authorized the creation of regional transportation planning organizations (RTPOs) through the voluntary association of local governments.

An RTPO must include, at minimum, at least one county; at least 100,000 in population or include three counties; and have as members all counties within the region and 60 percent of the cities within the region, representing at least 75 percent of the city population.

The objective of RTPOs is to enhance transportation planning both within a county and among counties. Specifically, RTPO duties are: (1) to develop, adopt and keep current a regional transportation plan that is consistent with county and city comprehensive plans; and (2) to certify that the transportation elements of local comprehensive plans conform with statutory requirements and are consistent with regional plans.

Regional transportation plans must address facilities and services which cross county lines, or which impact or are impacted by activities in other counties. Each RTPO must create a policy board consisting of representatives of major employers, member cities and counties, transit agencies, port districts and the Department of Transportation to assist in policy development.

To date, 14 RTPOs have been formed, including 38 of the state's 39 counties. State financial and technical support is provided to assist with the effort of carrying out RTPO duties.

Summary: The duties of regional transportation planning organizations (RTPOs) are expanded to require: (1) preparation and adoption of a regional transportation strategy for the region, including addressing alternative transportation modes in regional corridors; and (2) in cooperation with affected jurisdictions, development of a six-year regional transportation improvement program which proposes regionally significant transportation projects and programs,

including priorities and financing plans. RTPOs must also certify that the transportation elements of local comprehensive plans and, where appropriate, the countywide planning policies adopted under the Growth Management Act and the regional transportation plan are consistent with each other.

By July 1, 1995, RTPOs must develop guidelines and principles that provide specific direction for the development and evaluation of the transportation elements of comprehensive plans and assure that state, regional and local goals are met. These guidelines are to be developed in cooperation with cities, towns and counties. Local comprehensive plans must follow these guidelines, and then they must be certified by RTPOs by December 31, 1996.

The elements of the plan concerning the facilities and transportation programs which must be addressed are expanded. New plan elements are added: (1) a financial component addressing existing and prospective resources; (2) assessment of development patterns and their impact on transportation; (3) a regional transportation approach; and (4) where appropriate, the relationship among transit providers, including high capacity transit services.

The six-year street and road programs developed by cities and by counties respectively, are to address transportation. Each program is required to specifically set forth the most cost-effective projects and programs of regional significance, including transportation demand management alternatives, which are to be included in the regional transportation improvement program. The six-year plan also addresses how the local government will act to preserve railroad right of way if railroad operations cease.

Similarly, the six-year transit financial plans must incorporate a development program for transit and specifically set forth those projects of regional significance to be included in transportation improvement programs within the region.

RTPOs must develop level of service standards for at least all state highways and state ferry routes. The Legislative Transportation Committee is required to coordinate a comprehensive study on the appropriate relationship between state transportation facilities and local comprehensive plans. Steering committee membership, study requirements and reporting dates are identified.

Votes on Final Passage:

House	97	0	
Senate	44	2	(Senate amended)
House	96	0	(House concurred)

Effective: July 1, 1994

SHB 1955

C 71 L 94

Concerning hearings related to improvement districts.

By House Committee on Local Government (originally sponsored by Representatives Dunshee, H. Myers and Edmondson).

House Committee on Local Government
Senate Committee on Government Operations

Background: Cities and towns may create local improvement districts (LID's) and impose special assessments within a LID to finance various improvements.

The use of special assessments in a LID to finance improvements involves various steps and two hearings. One hearing is at the beginning of the process on the issue of whether the LID should be created. The other hearing is at the end of the process on the assessment roll where the council acts as a board of adjustment and hears protests by property owners over the special assessments that are proposed to be imposed on property within the LID.

Any city with a population of 15,000 or more may designate a committee of the council or a hearings officer to take testimony at the first hearing and make a recommendation to the full council on the creation of the proposed LID. The full council need not hold a hearing before creating the LID.

Any city with a population of 15,000 or more may designate a committee of the council or a hearings officer to take testimony at the second hearing and make recommendations to the full council on the final assessment roll. The full council is not required to hold a hearing on the final assessment roll; however, the council must hear appeals from property owners over their final assessments, and it must approve, reject, or modify and approve the final assessment roll.

Counties are not granted similar authority to use a committee or hearings examiner when creating road improvement districts (RID's) but may do so for creating LID's for water or sewer improvements.

Summary: The minimum population requirements are removed, and any city or town may designate a committee of the full council or a hearings officer to hold hearings on both the proposed creation of the LID and on the proposed assessment roll and to make recommendations to the full council for its action.

A county may designate a committee or a hearings officer to hold hearings on both the proposed creation of a RID and the proposed assessment roll and to make recommendations to the full county legislative authority.

Votes on Final Passage:

House	97	0
Senate	47	1

Effective: June 9, 1994

HB 2138

C 11 L 94

Eliminating Washington State University's rodent control responsibilities.

By Representatives Rayburn, Roland, Sheahan, Schoesler and Hansen; by request of Washington State University.

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: Washington State University (WSU), through the cooperative extension service, is required by state law to administer a program for destroying ground squirrels, pocket gophers, rabbits, and any other rodent it may designate as being injurious to the agricultural interests of the state. It is the duty of each person possessing or caring for land to destroy all such rodents. WSU is to inspect rodent conditions and to supervise the extermination of rodents by landowners.

WSU may notify a landowner of his or her obligation to exterminate rodents and, if the rodents are not exterminated in a timely manner, may enter the land and exterminate the rodents at the cost of the landowner. If such an extermination expense is not otherwise paid by the landowner, the board of county commissioners must tax the land to recover those costs.

Summary: Two state laws are repealed which directed WSU to administer a rodent inspection and extermination program and to make landowners responsible for the extermination of rodents injurious to agricultural interests.

Votes on Final Passage:

House	92	0
Senate	49	0

Effective: June 9, 1994

HB 2147

FULL VETO

Exempting institutions of higher education from certain expenditure requirements.

By Representatives Carlson, Talcott, Wood, Chandler, Forner, Van Luven, Sehlin, Schoesler, B. Thomas and Cooke.

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education
Senate Committee on Ways & Means

Background: Under current law, any state general fund money that is unexpended at the end of a biennium must be returned to the general fund. In addition, by law, state agencies are required to create spending plans designed to use state and non-state money in a way that conserves the state money.

Some college administrators have suggested that colleges and universities can operate more efficiently if they are allowed to save money appropriated during a biennium and spend it during the next biennium.

Summary: The requirement that agencies spend appropriated and non-appropriated money in a way that conserves the appropriated money does not apply to state institutions of higher education.

Votes on Final Passage:

House	96	0
Senate	46	0

VETO MESSAGE ON HB 2147

April 2, 1994

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. 2147 entitled:

"AN ACT Relating to expenditure requirements of institutions of higher education;"

House Bill No. 2147 excludes higher education from the provision of the budget and accounting act which requires agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds.

Existing language prohibits a state agency from spending appropriated funds while saving other resources which do not receive the same degree of visibility during the state budget process. At a time when government funding is undergoing significant change and scrutiny, I believe it is unwise to allow one segment of state government to spend money in a way that might negatively impact appropriated state general funds.

For these reasons, I am vetoing House Bill No. 2147 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 2151

C 72 L 94

Requiring that victims of felony sex offenses be given notice of HIV test results, whether the results are positive or negative.

By House Committee on Health Care (originally sponsored by Representatives L. Johnson, Ballasiotes, Dellwo, Chappell, Cothern, Conway, Thibaudeau, Talcott, Wood, Heavey, Sheldon, Van Luven, Campbell, Brough, Dorn, Lemmon, Long, Dyer, Kessler, Holm, Wineberry,

Basich, Romero, Springer, Hansen, H. Myers, Leonard and Foreman).

House Committee on Health Care
Senate Committee on Health & Human Services

Background: Washington law prohibits a person from disclosing or being compelled to disclose the identity of a person having an HIV test, the results of the HIV test, or the positive results of tests for other sexually transmitted diseases.

However, certain persons specified in statute may receive this information, including persons whose interaction with the infected individual has resulted in risk of acquisition of a sexually transmitted disease if the health officer believes that the exposed person was unaware that the risk existed and disclosure of the identity of the infected person is necessary.

Although this exemption is used as the basis for release of positive HIV test results to victims of sexual offenses, Washington law does not include a specific disclosure exemption for release of negative test results. The Washington State Department of Community Development was notified by the U.S. Bureau of Justice that Washington State's HIV statute is out of compliance with the Federal Anti-Drug Abuse Funding requirements because it does not include a clear provision for the reporting of all HIV test results to victims. Noncompliance could result in an annual 10 percent reduction of an $8 million federal grant.

Summary: Upon request of the victim of a sexual offense, disclosure of the results of tests for sexually transmitted diseases must be made to the victim if the result is negative or positive. The county prosecuting attorney must notify the victim of the right to this disclosure. The disclosure must be accompanied by appropriate counseling, including information regarding follow-up testing.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: June 9, 1994

SHB 2153

C 213 L 94

Requiring the superintendent of public instruction to develop sexual harassment policy criteria for school districts.

By House Committee on Education (originally sponsored by Representatives J. Kohl, Foreman, Thibaudeau, Ballasiotes, L. Johnson, Cooke, Valle, R. Johnson, Ogden, H. Myers, Heavey, Cothern, Appelwick, Anderson, Roland, Forner, Campbell, Kremen, Pruitt, Johanson, Kessler, Holm, King, Wineberry, Basich, Romero, Springer and Leonard).

House Committee on Education
Senate Committee on Education

Background: In 1975, the Superintendent of Public Instruction (SPI) was instructed by the Legislature to develop regulations and guidelines to eliminate sex discrimination. Regulations were adopted in 1976 and have been amended on several occasions.

A recent study by the American Association of University Women found widespread cases of sexual harassment in the nation's schools.

Summary: By December 31, 1994, SPI is to develop criteria for use by school districts in developing sexual harassment policies. The criteria shall address the subjects of grievance procedures, remedies to victims of sexual harassment, disciplinary actions against violators of the policy, and other subjects at the discretion of SPI.

By June 30, 1995, every school district shall adopt and implement a written policy concerning sexual harassment. The policy shall apply to all employees, volunteers, parents, and students, including, but not limited to, conduct between students.

SPI is to review the school district policies as part of its sexual equity compliance monitoring.

The school district policy must be conspicuously posted throughout each school building and provided to each employee. A process for discussing the policy with employees, volunteers, parents, and students must be developed.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature if:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education or employment;
(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education or employment; or
(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's educational or work performance, or of creating an intimidating, hostile, or offensive educational or work environment.

Votes on Final Passage:

House	87	10	
Senate	31	17	(Senate amended)
House	81	7	(House concurred)

Effective: June 9, 1994

E2SHB 2154

C 214 L 94

Providing protection for residents of long-term care facilities.

By House Committee on Appropriations (originally sponsored by Representatives R. Meyers, Valle, Carlson, Jones, Dellwo, Roland, Campbell, Dorn, Ogden, Kessler, Holm, Wineberry and Thibaudeau).

House Committee on Health Care
House Committee on Appropriations
Senate Committee on Health & Human Services

Background: Since 1987 all nursing home residents in Washington have been protected by a set of basic rights concerning information, care, privacy, treatment, security of their personal property and activities in the residence. These same basic rights do not uniformly exist in statute for other long-term care residential facilities such as boarding homes and adult family homes.

Residents of nursing homes may have their complaints addressed by the State Long Term Care Ombudsman or the Department of Social and Health Services Complaint Resolution Program. The Long-Term Care Ombudsman Program trains, certifies and supervises volunteers who mediate, resolve concerns and complaints, and stop verbal and physical abuse for Washington's 50,000 citizens living in nursing homes, boarding homes and adult family homes. Last year, the program handled nearly 5,500 complaints with 170 volunteers.

There are no regulations that either discourage or require a nursing home to refund a portion of a private nursing home resident's deposit fee if resident does not reside in the nursing home. All nursing homes, except those who take only private-pay residents, are required to provide the residents or their representatives full disclosure of deposit and fees upon admissions. There are no requirements stipulated when deposit funds owed are to be returned to the resident or their representative.

Summary: The rights of all nursing home residents are extended to residents in veteran's homes, adult family homes and boarding homes. These rights include: being appropriately informed of rights; protection of personal property; privacy and confidentiality; the ability to voice grievances; access and visitation rights; transfer and discharge requirements; freedom from any physical or chemical restraints imposed for discipline or convenience and not required to treat the resident's medical symptoms; freedom from abuse; and a number of rights to ensure that residents are able to choose their own lifestyle. The protection of private funds is also extended to residents in veteran's boarding homes.

If funds are available, boarding homes are authorized to obtain criminal background checks on their employees from the Department of Social and Health Services without charge, in the same way that nursing homes and adult family homes obtain these background checks.

Specific limitations are placed on minimum-stay fees or admission deposits, and on waivers of liability for personal property losses. Full disclosure of these fee limitations is required in admission contracts for nursing homes, boarding homes, adult family homes and veteran's homes. However, these limitations do not apply to provisions in contracts negotiated between a nursing facility and a certified health plan, health or disability insurer, health maintenance organization, or managed care organization.

The long-term care ombudsman is given responsibility for monitoring the implementation of the act and reporting to the Legislature by July 1, 1995.

Votes on Final Passage:

House	92	0	
Senate	49	0	(Senate amended)
House	90	0	(House concurred)

Effective: June 9, 1994

HB 2157

C 107 L 94

Repealing the termination dates for provisions relating to migratory waterfowl.

By Representatives King and Orr; by request of Department of Wildlife.

House Committee on Fisheries & Wildlife
Senate Committee on Natural Resources

Background: In 1985, the Legislature created the nine-member Migratory Waterfowl Art Committee. Its function is to submit a design for the migratory waterfowl art stamp to the Department of Wildlife. Revenue derived from stamp sales is deposited into the state wildlife fund and is used for migratory waterfowl programs and for the cost of printing and production of the stamp. The duties of the committee include selecting the migratory waterfowl stamp design for submittal to the department, creating collector art prints and related artwork, and selling this artwork.

In 1988, sunset provisions for the committee and the stamp and artwork program were enacted along with sunset provisions for several other committees throughout state government.

Summary: The sunset provisions for the Migratory Waterfowl Art Committee and the stamp and artwork program are repealed.

Votes on Final Passage:

House	92	0
Senate	47	0

Effective: June 9, 1994

HB 2159

C 12 L 94

Changing provisions relating to criminal jurisdiction on Skokomish tribal lands.

By Representatives Sheldon, Holm, Dellwo and Wineberry.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Under authorization of federal law, Washington State in 1963 assumed criminal and civil jurisdiction over Indians and Indian lands within the state. The federal law also permits a state to retrocede jurisdiction back to an Indian tribe and the federal government.

Under retrocession, the federal government rather than the tribe has jurisdiction over so-called major crimes committed by Indians on Indian lands. Major crimes under the federal law include homicide, assault, rape, kidnapping, arson, burglary, and robbery, among other felonies.

Retrocession requires agreement among the state, the tribe and the federal government.

Over the past eight years, four tribes in Washington have sought and received retrocession of state jurisdiction over criminal acts by Indians committed on tribal lands. These tribes are the Quileute, Chehalis, and Swinomish tribes, and the Colville Confederated Tribes of Washington.

Tribes that remain subject to state jurisdiction may enter into arrangements with local law enforcement agencies for providing law enforcement on tribal lands. However, tribes subject to full state criminal jurisdiction are not eligible for federal money for law enforcement. Some local agencies have experienced financial difficulty in continuing to participate in law enforcement on tribal lands. Those tribes that have sought and received retrocession of state jurisdiction have become eligible for federal funding for law enforcement.

Summary: Under the provisions of federal law, the state retrocedes criminal jurisdiction to the Skokomish Tribe. The retrocession applies only to crimes committed by Indians on tribal lands.

The Skokomish tribe is authorized to pass a resolution asking the Governor to issue a proclamation retroceding criminal jurisdiction. Retrocession becomes effective if accepted by the federal government.

Votes on Final Passage:

House	93	0
Senate	42	0

Effective: June 9, 1994

HB 2160

C 108 L 94

Concerning employees of public housing authorities.

By Representatives Ogden, Wineberry and H. Myers.

House Committee on Trade, Economic Development & Housing
Senate Committee on Health & Human Services

Background: Under current law, the Washington State Patrol is authorized to disclose, at the request of a school district, business organization, or state agency which educates, treats, supervises or provides recreation to children or developmentally disabled persons: (1) an applicant's record of convictions of certain offenses against persons; (2) civil findings of child abuse or exploitation in dependency or dissolution proceedings when the perpetrator contested the allegation of abuse; and (3) disciplinary board final decisions. An applicant is defined as any prospective employee or volunteer who has unsupervised access to children, developmentally disabled persons or non-certified educational personnel.

Local public housing authorities, through various federal, state, and local programs, provide safe and sanitary housing for many lower-income persons and populations with special needs. These populations consist of a large number of developmentally disabled persons, elderly persons, and children who are considered vulnerable to abuse or exploitation.

The current definition of "business or organization" does not include a public housing authority as a governmental entity authorized to request background information on prospective employees or volunteers. Many states will not provide background information on prospective employees or volunteers to public housing authorities unless they are specifically authorized, in state law, to request such information.

Summary: The definition of "business or organization" is amended to include public housing authorities as entities that can request background checks on prospective employees or volunteers who will or may have unsupervised access to children under the age of 16, developmentally disabled persons or vulnerable adults.

Votes on Final Passage:

House	92	0
Senate	46	0

Effective: June 9, 1994

SHB 2164

PARTIAL VETO

C 215 L 94

Repealing the permanent establishment of residential habilitation centers.

By House Committee on Human Services (originally sponsored by Representatives Sommers, Ogden, H. Myers and Leonard; by request of Legislative Budget Committee).

House Committee on Human Services
House Committee on Appropriations
Senate Committee on Ways & Means

Background: Six residential habilitation centers which provide services to people with developmental disabilities are permanently established in statute.

Summary: The statute which permanently establishes six residential habilitation centers is amended to delete the reference to Interlake School.

Votes on Final Passage:

House	57	40
Senate	39	9

Effective: April 1, 1994

Partial Veto Summary: The Governor vetoed a requirement that the Legislature consider the results of a study before deciding whether to modify or close any residential habilitation centers in the future. The study was contained in another bill which was not enacted during the legislative session.

VETO MESSAGE ON HB 2164-S

April 1, 1994

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. 2164 entitled:

"AN ACT Relating to residential habilitation centers;"

Substitute House Bill No. 2164 removes Interlake School from the list of permanently established Residential Habilitation Centers in RCW 71A.20.020. Section 2 of the bill states that the legislature will consider further amendment or the repeal of RCW 71A.20.020 contingent on a Department of Social and Health Services study directed in proposed House Bill No. 2163. The department intends to complete such a study. However, as House Bill No. 2163 was not enacted, I am vetoing section 2 of the bill.

With the exception of section 2, Substitute House Bill No. 2164 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 2167

C 159 L 94

Regulating race tracks.

By House Committee on Revenue (originally sponsored by Representatives Heavey, G. Fisher, Lemmon, Forner, Veloria, Roland, Eide, Campbell, Jones, Dorn, Zellinsky, Rayburn, Springer, Leonard and Patterson).

House Committee on Commerce & Labor
House Committee on Revenue
Senate Committee on Trade, Technology & Economic Development

Background: In 1991, the Legislature enacted ESHB 1120. Among other provisions, this bill reduced the parimutuel tax on horse race tracks with an average daily handle of more than $250,000 by approximately 2.5 percent. The bill also required licensees who are nonprofit corporations and who have race meets of 30 days or more to pay the Horse Racing Commission 2.5 percent of their daily gross receipts. The commission was required to deposit these additional funds into the Washington Thoroughbred Racing Fund (the fund). The only operator required to contribute to the fund under this provision was the nonprofit Emerald Racing Association (Emerald), when it operated Longacres Park in its final two years of existence.

After Longacres closed in 1992, Emerald was awarded the license to operate the 1993 summer race meet at Yakima Meadows. In 1993, the Legislature enacted EHB 1845, which reduced Emerald's contribution to the fund to 1.25 percent of its daily gross receipts and required Emerald to use the additional money it retained to enhance purses for the owners of winning horses.

The money in the fund may be spent only after legislative appropriation. Expenditures from the fund are to be used to benefit and support interim continuation of thoroughbred racing, capital construction of a new race track facility, and programs enhancing the general welfare, safety, and advancement of the Washington thoroughbred industry. At the end of the 1993 racing season, the fund contained $8.37 million.

In the 1993 Capital Budget, $8.2 million of the fund was appropriated to the Horse Racing Commission. The appropriation was subject to the following conditions and limitations:

(1) The appropriation is provided solely for the benefit and support of thoroughbred horse racing;
(2) No expenditures may be made to construct horse race or related facilities until the commission has made a determination that the applicant has the ability to complete the construction of a facility and fund its operation and the applicant has completed all permitting requirements; and

(3) The commission must insure that any expenditure will protect the state's long-term interest in the continuation and development of thoroughbred horse racing.

The Horse Racing Commission has not distributed any of the money in the fund.

Summary: Until June 1, 1995, licensees who are nonprofit corporations and who have race meets of 30 days or more do not contribute any portion of their daily gross receipts to the Washington Thoroughbred Racing Fund. Until that time, these licensees are required to use 1.25 percent of daily gross receipts to increase purses, and to place 1.25 percent of daily gross receipts into an escrow or trust account and use this money solely for construction of a new thoroughbred race track facility in western Washington.

Effective June 1, 1995, nonprofit licensees who have race meets of 30 days or more must again contribute 2.5 percent of their daily gross receipts to the Washington Thoroughbred Racing Fund.

All funds, including interest, remaining in the newly created escrow or trust account must be forwarded to the state general fund if a new race track is not built by January 1, 2001.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	88	0	(House concurred)

Effective: March 30, 1994

HB 2169

C 109 L 94

Establishing board membership criteria for regional transit authorities.

By Representatives R. Fisher and Heavey.

House Committee on Transportation
Senate Committee on Transportation

Background: The King, Pierce and Snohomish county councils voted in 1993 to establish the Central Puget Sound Regional Transit Authority (RTA). The establishment of such an authority within the boundaries of the three-county area was authorized by Chapter 101, Laws of 1992, requiring the approval of the county councils of at least two contiguous counties. The RTA is vested with high capacity transportation system development in the region, including imposition of voter-approved taxes for development and operation of high capacity transportation systems.

The 18-member authority is made up of the secretary of the Department of Transportation and representatives from each county, appointed by the county executive and confirmed by the county legislative authority. Initial membership on the RTA is based on one member for each 145,000 population within the county: 10 members from King County, four from Pierce County, and three from Snohomish County. County-appointed members must be mayors, city council members, or members of the county legislative authority from jurisdictions within the authority boundaries. Exercising a provision in law, the locally-elected officials granted the secretary voting status. Authority by-laws provide that proxy votes on the authority are not permitted.

Summary: County executives from counties within regional transit authority boundaries are made eligible to be appointed as members of an RTA.

Language is added providing that only board members, not including alternates or designees, may cast votes on the authority.

Votes on Final Passage:

House	92	0
Senate	46	0

Effective: June 9, 1994

SHB 2170

C 13 L 94

Extending the duration of special services demonstration projects.

By House Committee on Education (originally sponsored by Representatives Sommers, Silver, Ogden, Fuhrman, Dunshee, Dorn, Brough, B. Thomas, L. Johnson and J. Kohl; by request of Legislative Budget Committee).

House Committee on Education
House Committee on Appropriations
Senate Committee on Education

Background: Special education demonstration pilot projects were created in 1991 as the result of a Legislative Budget Committee study. The purposes of the projects are to: (1) develop methods to use resources efficiently and increase student learning; (2) promote noncategorical approaches to special services program design, funding and administration; (3) develop efficient and cost effective means for identifying students as specifically learning disabled, in order to increase the proportion of resources devoted to classroom instruction; (4) avoid unnecessary labeling of students; and (5) provide for a means to grant waivers from state rules, especially those exceeding federal requirements.

The 1991 legislation was amended in 1992 to clarify that the intent of the projects is to discourage unnecessary labeling of students while still providing state funding for needed services. Provisions were added permitting districts that have projects designed to reduce unnecessary labeling of students as handicapped to use prior handicap enrollments as the basis for funding during and two years after the project.

Between 10 and 25 projects are authorized. In 1991, three projects were approved: Seattle, Edmonds and Olympia. Seattle withdrew from the project in August 1993. In 1992, six more projects were approved: Battle Ground, Clover Park, North Central ESD Reading Recovery Cooperative (Bridgeport, Chelan, Manson, Omak, Tonasket, and Wenatchee), Northshore, Stanwood and Vancouver.

The Office of the Superintendent of Public Instruction is required to do an interim study in 1993 and a final study in 1995.

The current program expires in July 1, 1996.

Summary: Districts that have projects designed to reduce unnecessary labeling of students as handicapped can use the prior handicapped enrollment as the basis for funding. The restriction on using this only during the duration of the project and two years after the project is removed. References permitting this option to be used for projects approved in 1991 or after 1992 are deleted.

A new program option is added. This would permit districts that have more than 4 percent of their students with specific learning disabilities before participating in the project to continue to receive funding based upon 4 percent of their enrollment without labeling students.

Unnecessary and outdated funding language is removed.

The selection advisory committee is directed to approve at least seven additional projects.

The expiration date of the program is changed from January 1, 1996, to September 1, 2001.

Votes on Final Passage:

House	93	0
Senate	47	1

Effective: March 21, 1994

SHB 2176

C 216 L 94

Incorporating and annexing cities and towns.

By House Committee on Local Government (originally sponsored by Representatives G. Cole, Edmondson, Jacobsen, Padden, Dunshee, Orr, Lemmon and Carlson).

House Committee on Local Government
Senate Committee on Government Operations

Background: The incorporation of a city or town involves several steps over an extended period of time. The steps are as follows: (1) A petition, signed by a specified percentage of voters residing in the area proposed for incorporation, is filed with the appropriate county legislative authority; (2) a ballot proposition authorizing the incorporation is submitted to voters residing in the area proposed for incorporation; (3) if the ballot proposition is approved, special elections are held to nominate candidates for the elected offices, if needed, and to elect the initial elected officials; (4) the initial elected officials assume office with limited powers and provide for transition of the area into a city or town; and (5) the city or town is officially incorporated after the transition period, and the initial elected officials obtain full powers. The minimum population for an area to incorporate as a city or town is 300.

The proposed incorporation of a city or town is subject to review by a boundary review board, if one exists in the county in which the proposed city or town is to be located and if the jurisdiction of the boundary review board has been invoked. A boundary review board may approve or modify any proposed incorporation and may disapprove the proposed incorporation of a city or town with a population of less than 7,500. A boundary review board may not disapprove the proposed incorporation of a city with a population of 7,500 or more but may recommend against the proposed incorporation. Further, a boundary review board may not modify a proposal for incorporation of a city with a population of 7,500 or more to reduce the population below 7,500 or to delete or add territory constituting 10 percent or more of the total area originally proposed for incorporation.

A decision of a boundary review board may be appealed to superior court if the appeal is filed within 10 days of the date of the board's decision. The superior court reviews a board's actions under an "arbitrary and capricious" standard of review.

Any proposed annexation by an existing city or town of an area which is also proposed for incorporation as a new city or town takes priority over the proposed incorporation. The priority of a proposed annexation over any proposed incorporation is absolute, without regard to which action was proposed first.

Petitions have been filed proposing the incorporation of Shoreline north of Seattle that would surround the city of Lake Forest Park, except for the portion of Lake Forest Park that abuts Lake Washington. An agreement has been reached between incorporation proponents and officials of Lake Forest Park that territory adjacent to Lake Forest Park should be removed from the proposed incorporation, but this area constitutes more than 10 percent of the total area described in the incorporation petition.

Summary: The minimum population for an area to incorporate as a city or town is increased from 300 to 1,500. A person proposing the incorporation of a city or town must file a notice with the county legislative authority, together with a $100 filing fee. The jurisdiction of a local boundary review board is invoked automatically to consider the proposed incorporation. The boundary review board holds a public meeting on the incorporation proposal within 30 days of the notice being filed.

After the public meeting, a petition authorizing the incorporation is circulated for signatures. This petition must be submitted to the county auditor within 180 days after the public meeting. The petition may describe boundaries and other matters differing from the descriptions included

in the notice originally filed. The signature requirement for the incorporation petition is increased from a number equal to at least 10 percent of the resident voters who voted in the last state general election to a number equal to at least 10 percent of the number of voters residing in the proposed city or town.

When reviewing a proposal for incorporation, the boundary review board must remove any territory from the proposed area that is located outside of an urban growth area or that is annexed by a city or town. The boundary review board may remove territory that is proposed for annexation by a city or town if a petition or resolution initiating the annexation was filed or adopted within 90 days of the filing of the incorporation petition. The restriction on a boundary review board's ability to modify the boundaries of an area proposed for incorporation applies after any of these territories are removed from the proposal. Provisions are included to apply these changes in the authority of a boundary review board to current incorporation efforts that were indicated by the filing of an incorporation petition prior to the effective date of this act.

Where a local boundary review board does not exist, the county legislative authority may modify the boundaries of a proposed incorporation under the same stipulations as a boundary review board.

An appeal of a decision of a boundary review board must be filed within 30 days, rather than 10 days, of the board's decision. The "arbitrary or capricious" standard of review for a board decision is changed to a "clearly erroneous" standard of review.

The priority of a proposed annexation over a proposed incorporation no longer applies if the resolution or petition initiating the annexation was adopted or filed more than 90 days after the filing of the petition initiating the incorporation. A boundary review board may simultaneously consider a proposed incorporation and annexation if the resolution or petition initiating the annexation was adopted or filed within 90 or fewer days of the filing of the petition for incorporation.

The date for submittal to voters of the ballot measure authorizing the incorporation of a city or town is clarified.

A proposed annexation of territory by a city or town is exempted from compliance with the State Environmental Policy Act.

Votes on Final Passage:

House	92	0	
Senate	48	1	(Senate amended)
House	89	0	(House concurred)

Effective: April 1, 1994

SHB 2178

C 73 L 94

Clarifying employee transfer rights for fire fighters.

By House Committee on Local Government (originally sponsored by Representatives H. Myers and Orr).

House Committee on Local Government
Senate Committee on Labor & Commerce

Background: In 1986, legislation was enacted authorizing fire fighters to transfer employment into a city, town, or fire protection district if the employee: was going to lose his or her job as a direct consequence of a consolidation, merger, incorporation, or annexation; was principally performing duties that are to be performed in the new fire protection agency; and met the minimum requirements of the position.

Fire fighters who transfer pursuant to this legislation are placed on the same period of probation as new employees and are eligible for promotion after the end of the probationary period.

Concerns have been expressed over the possible misuse of the probationary period to circumvent the intent of the employee transfer legislation. Personnel rules usually allow a new hire to be dismissed without cause during the probationary period. Since fire fighters who transfer into a city, town, or fire protection district are placed on probation, concerns have been raised over whether a local government could dismiss the transferring fire fighters without any reason in order to avoid hiring them.

Under the fire fighter transfer legislation, the new employer cannot promote a transferred fire fighter until the end of the probationary period.

Summary: A fire fighter who transfers into the civil service system of a city, town, or fire protection district because of a merger, annexation, consolidation, or incorporation, and who already completed a probationary period as a fire fighter, may only be terminated during the probationary period for failure to adequately perform assigned duties, for not meeting the minimum qualifications of the position, or for behavior that would otherwise be subject to disciplinary action. A fire fighter who transfers employment after such a governmental action is eligible for promotion before the end of the probationary period.

Votes on Final Passage:

House	96	1
Senate	40	1

Effective: March 23, 1994

SHB 2180

C 110 L 94

Revising provisions relating to appointment of guardians ad litem.

By House Committee on Judiciary (originally sponsored by Representatives H. Myers, Ogden, Thibaudeau and J. Kohl).

House Committee on Judiciary
Senate Committee on Health & Human Services

Background: The federal Child Abuse Prevention and Treatment Act requires the states to provide that guardians ad litem must be appointed in judicial proceedings to represent children who are allegedly abused or neglected. Washington's eligibility to receive federal funds under the Child Abuse and Neglect Basic State Grant Program and the Children's Justice Act Program is contingent upon the state's compliance with the guardian ad litem requirement. The requirement applies in dependency proceedings or in shelter care proceedings but does not apply in domestic relations actions or criminal actions in which allegations of child abuse or neglect are made.

Last year, a bill passed the Legislature that inadvertently jeopardized Washington's compliance with federal law by requiring courts to appoint guardians ad litem only in "contested" judicial proceedings in which allegations of child abuse and neglect are made. Prior to passage of that law, Washington statutes required courts to appoint guardians ad litem in every judicial proceeding in which allegations of child abuse and neglect were made.

After the bill was passed last year, the federal Department of Health and Human Services notified the state that the 1993 enactment violated the requirements under federal law. The secretary of Social and Health Services declared that the law is inoperative because of a clause in the bill that provided it would be inoperative if it conflicted with federal law. Nevertheless, some judges are apparently appointing guardians ad litem only in contested judicial proceedings.

Two statutes govern appointment of guardians ad litem. One of those statutes is contained in the chapter which governs the requirement of certain persons to report suspected incidents of child abuse and neglect to authorities. The other statute specifically applies to dependency proceedings. One statute provides that the requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel. The other statute provides that the requirement of counsel shall be deemed satisfied if the child is represented by counsel.

Summary: In any judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect, the court must appoint a guardian ad litem for the child. In dependency actions that do not involve allegations of child abuse or neglect, the court must appoint a guardian ad litem unless the court finds for good cause that the appointment is unnecessary. The court may consider the requirement of appointment of a guardian ad litem to be satisfied if the child is represented by an attorney. "Judicial proceedings" are dependencies and hearings following reports of abuse and neglect and do not include domestic relations cases and criminal cases.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 9, 1994

SHB 2182

C 74 L 94

Providing transfer rights to certain port district fire fighters.

By House Committee on Local Government (originally sponsored by Representatives Kremen, Mielke, Eide, King, Linville and H. Myers).

House Committee on Local Government
Senate Committee on Labor & Commerce

Background: In 1986, legislation was enacted authorizing fire fighters to transfer employment into a city, town, or fire protection district if the employee: was going to lose his or her job as a direct consequence of a consolidation, merger, incorporation, or annexation; was principally performing duties that are to be performed in the new fire protection agency; and met the minimum requirements of the position.

These transfer rights were provided only to fire fighters employed by cities, towns, and fire protection districts. Fire fighters employed by port districts do not have these same transfer rights.

Summary: A fire fighter who is employed by a port district may transfer employment to a city or fire protection district in the same manner and under the same conditions as a fire fighter employed by a city or fire protection district following an annexation, merger, consolidation or incorporation.

Votes on Final Passage:

House	91	0
Senate	35	14

Effective: June 9, 1994

HB 2187

C 14 L 94

Concerning the merger of fire protection districts.

By Representative Dunshee.

House Committee on Local Government
Senate Committee on Government Operations

Background: Fire protection districts are governed by a board of commissioners consisting of either three or five members. Fire commissioners serve staggered six-year terms of office.

Whenever two or more fire protection districts merge, the board of commissioners of the resulting fire protection district consists of all of the commissioners of the merging fire protection districts. The size of this expanded board of commissioners is reduced gradually over the next three district general elections to either three or five members. Where eventually the board will consist of three members, one commissioner is elected at each of the next three district general elections. Where eventually the board will consist of five members, one commissioner is elected at the first district general election, and two commissioners are elected at the second and third district general elections.

Summary: The process to reduce the number of commissioners in a fire protection district that results from the merging of two or more fire protection districts is altered slightly. A vacancy will not be filled on a board of commissioners of a merged fire protection district until the number of fire commissioners has been reduced to its eventual size of either three or five commissioners.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: June 9, 1994

HB 2188

C 75 L 94

Revising provisions relating to international trade through Washington ports.

By Representatives Kremen, Chandler, Wineberry, Linville, Schoesler, Quall, Forner, Wood, Campbell and Rayburn.

House Committee on Trade, Economic Development & Housing
Senate Committee on Trade, Technology & Economic Development

Background: In 1989, the Legislature enacted legislation to authorize the Washington Public Ports Association (WPPA) to create a federation of Washington ports, in order to increase cooperation and coordination between the ports and thereby promote international trade and tourism. The Legislature also required the WPPA to submit annual reports to the Legislature describing its efforts to establish the federation. The Federation of Washington Ports is scheduled to sunset on July 1, 1994, unless re-authorized by the Legislature.

The Legislative Budget Committee recommended that the federation be allowed to continue, and that the annual report prepared by the Washington Public Ports Association on federation activities be eliminated.

Port districts are also authorized to establish export trading companies to enhance international trade. The authorization to form export trading companies expires on June 30, 1994, unless re-authorized by the Legislature.

Summary: The provisions that would have allowed the Federation of Washington Ports to sunset are repealed. The Washington Public Ports Association is no longer required to submit annual reports pertaining to the establishment of the Federation of Washington Ports. The provisions that would have deleted the authority for port districts to establish export trading companies are repealed.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 9, 1994

EHB 2190

C 160 L 94

Modifying limitations of housing-related capital bond proceeds.

By Representatives Ogden and H. Myers; by request of Department of Community Development.

House Committee on Capital Budget
Senate Committee on Labor & Commerce

Background: The Housing Assistance Program, established in 1986, provides either loans or grants to local governments, nonprofit organizations, and public housing authorities. The loans or grants are provided to increase the availability and affordability of housing for low-income households or households with special housing needs.

Activities eligible for assistance through the Housing Assistance Program include: (1) new construction, rehabilitation or acquisition of housing or homeless shelters; (2) rent or mortgage guarantees and subsidies for housing units; (3) down payment or closing cost assistance for first time home buyers; (4) matching funds for social services directly related to housing for people with special housing needs; (5) technical assistance, design and financial services; and (6) administrative costs of the program and housing organizations receiving grants or loans.

The program is funded by capital budget appropriations of state bond proceeds, interest from real estate brokers' escrow accounts, a portion of the state real estate excise tax, and other legislative appropriations. The capital bond proceeds may be used only for costs normally considered capital costs, such as construction, renovation, acquisition, down payment and closing costs, and mortgage insurance. Costs for administering the program, rent subsidies, tech-

nical assistance, and social services cannot to be paid from capital bond proceeds or from loan repayments of capital bond proceeds.

Summary: Money from the repayment of loans from capital bond proceeds may be used for administrative costs and all activities necessary for the functioning of the Housing Assistance Program except that these moneys can not be used for rent subsidies or social programs. Administrative costs of the program can not exceed 4 percent of the money available for the housing program. Authorized organizations eligible for assistance from the Housing Assistance Program are amended to include federally recognized Indian tribes in the state of Washington. Recipients of grants or loans from the housing programs are required to be in compliance with state revenue and taxation laws at the time of the grant or loan.

Votes on Final Passage:

House	61	31	
Senate	31	17	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	30	16	
House	64	32	

Effective: June 9, 1994

SHB 2191

C 15 L 94

Regulating bidding procedures concerning minority and women-owned businesses.

By House Committee on Trade, Economic Development & Housing (originally sponsored by Representatives Ogden, Schoesler, Sheahan, Roland, Carlson, Rayburn and Wineberry; by request of Washington State University).

House Committee on Trade, Economic Development & Housing
Senate Committee on Government Operations

Background: In 1983, the Legislature created the Office of Minority and Women's Business Enterprises in 1983 to increase the level of participation by minority and women-owned businesses in state contracts with the private sector. The office is required to establish annual goals for participation by qualified minority and women-owned businesses for each state agency and institution of higher education. The goals are established for public works as well as for the procurement of goods and services, and the goals may be administered on a contract-by-contract basis or a class-of-contracts basis.

If considered necessary to accomplish the goals for minority and women-owned businesses participation, the contracts must be awarded to the next lowest bidder, or all bids rejected and new bids obtained if the lowest bidder does not meet the goals established for a particular contract. The statute only refers to the next lowest bidder, not the next lowest responsible bidder. It is unclear whether it is permissive or mandatory for a state agency or institution of higher education to reject all bids and call for new bids if the next lowest bidder does not meet the contract goals.

Summary: References to contracts being awarded to the next lowest bidder in order to meet the goals for minority and women-owned participation are amended to refer to the next lowest responsible bidder. A state agency or institution of higher education may choose to reject all bids and call for new bids if the next lowest responsible bidder does not meet the goals established for the contract.

Votes on Final Passage:

House	90	0
Senate	45	3

Effective: June 9, 1994

EHB 2193

C 76 L 94

Exempting certain renal disease facilities from health care assistant licensing requirements.

By Representatives Veloria, Lisk and Dyer.

House Committee on Health Care
Senate Committee on Health & Human Services

Background: Health care assistants are unlicensed persons who assist a licensed health provider in providing health care to patients.

By law, health care assistants can be certified by a health care facility to administer injections and perform minor invasive procedures under the supervision of a health care practitioner, in accordance with requirements established by the secretary of the Department of Health. The health care facility must provide the licensing authority with a certified roster of health care assistants who have been certified by the health care authority and must pay certification fees.

The Department of Health has exempted federally-approved end stage renal dialysis facilities from the requirements of certification because their health care assistants already meet federally-approved training standards. However, because of an attorney general opinion, this exemption is not clear.

Summary: Federally approved end-stage renal facilities are expressly exempted from the requirements of certification and the payment of certification fees.

Votes on Final Passage:

House	92	0
Senate	47	0

Effective: June 9, 1994

SHB 2197

C 77 L 94

Concerning the notification of a witness or victim upon the release of an inmate.

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Appelwick, Wood, Kessler, Ballard, Karahalios, Reams, Wineberry, Foreman, Dyer, Jones, Casada, B. Thomas, Long, Campbell, Van Luven, Silver, Schmidt, Brumsickle, Brough, Edmondson, Cooke, J. Kohl, King, Flemming, Roland, Kremen, Sheldon, Chandler, Eide, Johanson, Springer and Mastin).

House Committee on Corrections
Senate Committee on Law & Justice

Background: Washington law gives victims and witnesses of certain crimes the right to request to be notified before inmates are released from prison. The right also extends to certain other individuals specified in writing by the prosecutor. The crimes to which this right applies are violent offenses, sex offenses and felony harassment offenses.

An individual requests notification by submitting a written request to the Department of Corrections. Upon receiving this request, the department must give as much advance notice as possible prior to the offender's release, parole, community placement, work release placement or furlough. At a minimum, 10 days' advance notice must be provided. In the event of an escape or an emergency furlough (such as for a medical emergency), the department is not required to meet the 10-day notice requirement, but must still notify the individuals who requested this notice at the earliest possible date.

The Department of Corrections' records regarding these requests for notification are confidential. Washington law does not currently require the department to retain these records for any particular length of time. The department's present practice is to retain records for one year following any particular notification. The department then destroys the records.

Summary: The Department of Corrections must retain, for a period of two years following an inmate's release, two types of documents:

(1) a signed request by an individual to be included in the notification program; and
(2) a receipt showing that the department mailed the notice to the requesting party's last known address.

The Department of Corrections shall attempt alternative methods of notification whenever a mailed notice is returned as undeliverable.

Votes on Final Passage:

House	92	0
Senate	46	0

Effective: June 9, 1994

ESHB 2198

C 78 L 94

Forbidding juvenile sex offenders from attending the same school as their victims.

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Campbell, Horn, Long, Wood, Appelwick, Ballard, Karahalios, Reams, Wineberry, Foreman, Kessler, Cooke, Dyer, Schoesler, Casada, B. Thomas, Carlson, Van Luven, Silver, Schmidt, Brumsickle, Brough, J. Kohl, King, Flemming, Roland, Kremen, Sheldon, Chandler, Eide, Johanson, Lisk, Sehlin and Springer).

House Committee on Corrections
Senate Committee on Law & Justice

Background: Nothing under current law prevents a released or paroled juvenile sex offender from attending the same school as his or her victim.

A juvenile is a sex offender if he or she has been found guilty of rape, rape of a child, child molestation, indecent liberties, incest or communicating with a minor for immoral purposes.

Summary: After release or parole, a juvenile sex offender may not attend a school attended by his or her victim. This mandate pertains only to public elementary, middle and high schools.

Transportation and other costs related to the offender's change in schools must be paid by the offender's parents or guardians. When the Department of Social and Health Services releases a juvenile sex offender, the secretary must provide notice of the statute's requirements to the appropriate school board.

Votes on Final Passage:

House	95	0
Senate	43	0

Effective: June 9, 1994

HB 2205

C 79 L 94

Creating urban emergency medical service districts.

By Representatives Cothern, L. Johnson and H. Myers.

House Committee on Local Government
House Committee on Revenue
Senate Committee on Government Operations

Background: Voters of the five following taxing districts may approve ballot propositions authorizing the taxing district to impose annual regular property taxes of up to 50 cents per $1,000 of assessed valuation for six years to finance emergency medical services:

- Counties;
- Cities and towns;

- Fire protection districts;
- Public hospital districts; and
- Emergency medical service districts.

The vote that is necessary to authorize these regular property taxes is at least a 60 percent affirmative vote, with a 40 percent validation requirement.

An emergency medical service district is a special district that may be created in the unincorporated area of a county to provide and finance emergency medical services. The county legislative authority acts in an ex officio capacity as the governing body of an emergency medical service district.

If a county imposes the property tax for emergency medical services, no taxing district within its boundaries may impose this tax.

Voters of King County have authorized the county to impose the regular property tax to finance emergency medical services. Snohomish County does not impose the emergency medical service tax. Most of the city of Bothell is located in King County, but a part of Bothell is also located in Snohomish County.

Summary: The council of a city or town located in two counties may create an urban emergency medical service district in the portion of the city or town located in one of the two counties if:

- The county in which the district is to be located does not impose the property tax to fund emergency medical services; and
- The other county in which the city or town is located does impose the property tax to fund emergency medical services.

The city or town council must hold a public hearing on the creation of the emergency medical service district prior to creating the district by ordinance. The city or town council acts in an ex officio capacity as the governing body of an urban emergency medical service district. Voters of the urban emergency medical service district are the registered voters residing in the district.

An urban emergency medical service district is authorized to provide emergency medical services within its boundaries by contracting with a county, city, town, fire protection district, public hospital district, or emergency medical service district to provide those services.

Voters in an urban emergency medical service district may approve ballot propositions authorizing the district to impose annual regular property taxes of up to 50 cents per $1,000 of assessed valuation for six years to finance emergency medical services. The ballot proposition authorizing the taxes must be approved by at least a 60 percent affirmative vote, with a 40 percent validation requirement.

Votes on Final Passage:

House	91	0
Senate	46	0

Effective: June 9, 1994

2SHB 2210

C 217 L 94

Creating a thirtieth community and technical college district.

By House Committee on Appropriations (originally sponsored by Representatives Cothern, L. Johnson, Sommers, J. Kohl, Jacobsen, Ogden, Rust, Ballasiotes, Long and Wang).

House Committee on Higher Education
House Committee on Appropriations,
Senate Committee on Higher Education

Background: STATE ENROLLMENT GOALS: In July 1990, the Higher Education Coordinating Board presented a long-range enrollment plan to the Governor and the Legislature. The plan was entitled "Design for the 21st Century: Expanding Higher Education Opportunity in Washington." The plan recommended increasing enrollment opportunities for Washington's residents to achieve the 90th percentile in national participation rates by the year 2010. Under the plan, enrollment opportunities for upper division and graduate students would increase by 44,000 students by the year 2010. Community college enrollments would be increased by 28,650 students by 2010. The increased enrollment levels for community college students were intended to reflect population growth and the anticipated new demand for academic transfer programs in areas served by branch campuses.

SITING NEW CAMPUSES IN NORTH KING AND SOUTH SNOHOMISH COUNTIES: In the last 20 years, the population of north King and south Snohomish counties has increased dramatically. Higher education enrollment opportunities for the people in those areas did not keep pace with population growth.

During the late 1980s, the community college system studied ways to meet selected post-secondary education needs of the area. The State Board for Community College Education concluded that existing community colleges could not meet the needs, and that a new college was needed. The board reached its conclusion prior to the addition of the technical colleges to the system.

In the 1991-93 capital budget, the State Board for Community and Technical Colleges received funds to conduct a "predesign study" for a new community college in the area. In 1992, at the request of a number of legislators, the board modified the scope of the study to include an analysis of the feasibility of collocating the new community college with the University of Washington's branch campus in the Bothell/Woodinville area. The board concluded that collocating the two institutions on the University's Wellington Hills site was programmatically feasible for a 10 year period. The study also concluded that marginal savings (4 percent) would accrue from the temporary collocation of the two institutions.

In the 1993-95 capital budget, the Legislature appropriated $170,000 to the Higher Education Coordinating Board to study alternative organizational models for meeting the higher education and work force training needs of the people of the north King and south Snohomish counties. The board was directed to determine a preferred organizational model for meeting those needs, and to submit a recommendation to the Governor and the Legislature by November 30, 1993. The board was also directed to evaluate a minimum of four sites for a new institution of higher education in the area.

In its report, the board supported the creation of a new community college and reaffirmed its commitment to the development of an upper division and graduate branch campus of the University of Washington in the area. It recommended the collocation of the two institutions on the Truly Farm site if certain conditions were met. The board also recommended that the state retain ownership of the Wellington Hills site previously obtained for the University's branch campus. The site would be "banked" as one way of meeting the future post-secondary needs of the region.

COMMUNITY COLLEGE LAWS: Community and technical colleges have service districts that are described in law. State funding for the districts is appropriated in a lump sum to the State Board for Community and Technical Colleges for disbursement to each district.

By law, each district has a five-member board of trustees appointed by the Governor and confirmed by the Senate. In selecting members of the board, the Governor must consider geographical diversity, and representation from labor, business, women, and racial and ethnic minorities. Except for members initially appointed, board members are appointed for five-year staggered terms. Board members must be residents and qualified electors of the district. Employees of the community and technical colleges, school directors, and members of the governing boards of public or private educational institutions are not permitted to serve as community or technical college trustees.

Summary: A new district, District 30, is added to Washington's community and technical college system. The new district will include the land encompassed by the Lake Washington and Riverview School Districts in King County and the Northshore School District in King and Snohomish counties. The Northshore School District is removed from the area served by Shoreline Community College. Lake Washington and Riverview, formerly Lower Snoqualmie, School Districts are removed from the areas served by Bellevue Community College.

A five-member board of trustees is created for District 30. The board will govern the district and its college, named Cascadia Community College. The members of the board will be selected by the Governor and confirmed by the Senate. The Governor will select board members and determine the length of their terms under the law that describes the qualifications and requirements for all community college trustees.

The University of Washington's branch campus in the Bothell/Woodinville area will be collocated with Cascadia Community College.

Votes on Final Passage:

House	91	7	
Senate	32	17	(Senate amended)
House	85	9	(House concurred)

Effective: April 1, 1994

SHB 2212

C 111 L 94

Determining the number of district court judges.

By House Committee on Judiciary (originally sponsored by Representatives Eide, Padden, Appelwick, Wineberry and Johanson).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: In 1991, the combination of two bills amending the same section of law and the Governor's partial veto of one of the bills led to an inconsistency in the statute that determines the number of District Court judges.

In 1991, the Legislature changed the method of determining the number of District Court judges in the state. Prior to that time, the number of judges in each county was adjusted in statute each time positions were added by statute. However, judges could also be added by county action and without a statutory change. Therefore, the statute does not correctly state the number of judges in many counties. Adjustments under this prior system were based on county population figures. As part of the 1991 amendment, the base number of judges was set as of January 1, 1992. Subsequent additions of judges are to be based on a weighted caseload analysis by the Office of the Administrator for the Courts. Adding District Court judges requires legislative passage of a law. A section of this 1991 change would have amended RCW 3.34.010 by eliminating the county-by-county listing of the number of judges and by referring to the new method of determining the number of judges. However, the Governor vetoed this section of the bill because of the passage of a conflicting bill the same session.

The other bill that also amended RCW 3.34.010 added judges in King, Pierce and Spokane Counties, and reduced the number of judges in Pacific County. To allow these changes, the Governor vetoed the section of the first bill that would have eliminated the county-by-county listing of numbers. As a result, the current statute incorrectly states the number of District Court judges holding office in 16 of the state's 39 counties.

Summary: RCW 3.34.010 is amended to reflect the current method of determining the number of District Court judges. The statute is also updated to correctly state the number of judges in each county.

Votes on Final Passage:

House 92 0
Senate 46 0

Effective: June 9, 1994

ESHB 2224

C 262 L 94

Regulating licensing of motor vehicles and vessels.

By House Committee on Transportation (originally sponsored by Representatives R. Fisher, Zellinsky, Forner and Cothern; by request of Department of Licensing).

House Committee on Transportation
Senate Committee on Transportation

Background: Current law declares that mopeds are considered vehicles for purposes of vehicle registration (Chapter 46.12) but not for vehicle dealer regulation (Chapter 46.70). The status of mopeds for purposes of vehicle licensing (Chapter 46.16) is not addressed.

The Department of Licensing (DOL) is required to estimate at least once every four years the amount of motor fuel used by snowmobiles. The estimate is used to determine the amount of gas tax revenue to be transferred to the snowmobile account as unclaimed tax exemptions. The method for determining the estimate is left to the discretion of the director.

DOL is required to use certified mail to notify an individual that his or her vehicle certificate, license or permit has been canceled.

The vehicle title fee was increased from $1.00 to $1.25 in 1990 with the passage of odometer requirements. The title reissue fee and replacement fee were inadvertently left at $1.00.

The terms "truck" and "motor truck" are defined separately in Chapter 46.04 RCW but are not listed separately in the combined licensing fee statute.

RCW 46.16.210 provides that persons may renew their vehicle license 30 days prior to the issuance of the renewal notice if they pay a special handling fee of $2.00. Half of the fee goes to the county collecting the fee and half to the state highway safety fund. Less than $2,500 was deposited in the highway safety fund as a result of this fee. No additional work is required on the part of the department or the licensing agent to administer the early issuance.

DOL administers proportional registration for trucks engaged in interstate commerce.

As a result of 1991 legislation, disabled parking decals and cards were replaced with placards.

DOL regulates and collects fuel taxes from motor fuel distributors.

Marine vessel dealers are required to possess a certificate of ownership or a manufacturer's statement of ownership for each vessel in their inventory. Vehicle dealers must possess a certificate of ownership for each used vehicle in their inventory.

Part-time employees of dealerships are not permitted to operate vehicles bearing dealer license plates.

Vehicles with fixed loads, such as well drilling machines, air compressors, or rock crushers, pay a $5 fee. Circus vehicles pay a $10 fee. Vehicles paying these fees are not required to pay the combined licensing fee.

SSB 5535, passed in 1993, allows one-time registration of trailers used in combination with trucks registered at 42,000 pounds or more. To compensate for the revenue loss, the combined licensing fee for vehicles registered at 42,000 pounds or more was increased by $90. Single unit vehicles and log trucks used exclusively for hauling logs are assessed the increased fee but do not benefit from one-time trailer registration.

Summary: Mopeds are considered vehicles except in the case of dealer licensing statutes.

A formula is provided to determine annual snowmobile fuel usage. The formula uses 135 gallons as the average annual fuel usage per snowmobile.

DOL is authorized to use first class mail to notify an individual that his or her vehicle certificate, license or permit has been canceled.

The fees for vehicle title reissue and replacement are increased from $1.00 to $1.25.

The term "truck" is added to the types of vehicles for which payment of the combined licensing fee is required.

The $2.00 handling fee for early issuance of a vehicle license is eliminated.

The following changes are made to proportional registration statutes. The definition of "preceding year" is modified to accommodate staggered registration. DOL is given authority to mitigate fees. Language is made consistent with 1993 legislation regarding combined licensing fees. Obsolete language is removed regarding backing plates. The department is given authority to serve continuing liens.

References to "card" and "decal" are replaced with "placard" in disabled parking statutes.

The following changes are made regarding motor fuel distributors: Penalty language addressed elsewhere in statute is deleted; obsolete language regarding bulk storage plants and special fuel suppliers is deleted; language is clarified and strengthened regarding denial and revocation of distributor licenses; the department is given authority to serve continuing liens for taxes owed; the department is given discretion as to whether a deficiency assessment for failure to file a tax return should be filed; and the $10 fuel tax distributor fee is eliminated.

DOL is authorized to accept additional documents as evidence of ownership for vessels in vessel dealer inventories and used vehicles in vehicle dealer inventories.

Part-time dealership employees are permitted to drive vehicles bearing dealer license plates.

The fixed load capacity fee and the circus vehicle fee are eliminated.

The combined licensing fee is reduced by $90 for trucks registered at 42,000 pounds or more that do not haul trailers or are used exclusively for hauling logs.

Votes on Final Passage:

House	95	0
Senate	44	1

Effective: June 9, 1994
July 1, 1994 (Sections 8 and 28)

SHB 2226

C 161 L 94

Requiring cities and towns to provide notice for rate increases for solid waste handling services.

By House Committee on Environmental Affairs (originally sponsored by Representatives Horn, Rust and Cooke).

House Committee on Environmental Affairs
Senate Committee on Ecology & Parks

Background: Solid waste collection companies operating in the unincorporated areas of a county are regulated by the Utilities and Transportation Commission (UTC). A city has the options of allowing the UTC to regulate collection, operating a city collection service, or regulating a private collection company.

A solid waste collection company regulated by the UTC is required to provide 45 days notice to the UTC and the public before changing rates or service levels.

Summary: Cities that do not opt for UTC-regulated collection are required to notify the public of a change in solid waste rates 45 days prior to the proposed date of the rate change. Notification may occur through the mail or through the newspaper.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	42	2	(Senate receded)

Effective: June 9, 1994

2SHB 2228

C 218 L 94

Clarifying the state's public policy on gambling.

By House Committee on Revenue (originally sponsored by Representatives Heavey, Lisk, Springer, Schmidt, Van Luven and Roland).

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

Background:

Public policy statement. The Washington State Gambling Code contains a series of legislative policy declarations. For the purpose of negotiating tribal gaming compacts, the Gambling Commission has summarized these declarations into the following statement of public policy on gambling: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling by limiting the nature and scope of gambling activities and by strict regulation and control."

Frequency of Lottery games. The frequency with which the Lottery offers any of its games is strictly within the agency's discretion.

Problem and compulsive gambling. In 1992, the Lottery Commission contracted with Rachel Volberg, Ph.D., to conduct both an adult and an adolescent prevalency study of problem and compulsive gambling in this state. These studies were conducted in the spring and summer of 1992. Dr. Volberg estimated that between 14,400 and 49,800 Washington residents can be classified as current probable compulsive gamblers. In addition, an estimated 43,300 to 93,700 Washington residents can be classified as current problem gamblers. Among adolescents, an estimated 23,000 to 33,700 can be classified as at-risk gamblers and an additional 950 to 4,700 adolescents in Washington can be classified as problem gamblers. There are a limited number of treatment options for problem and compulsive gamblers in Washington.

The Gambling Commission and the Lottery Commission have each adopted policies on compulsive gambling. These policies recognize that compulsive gambling exists in this state and pledge the resources of the agencies to assist in public awareness and education and research activities related to compulsive gambling. The Gambling Commission has: developed a compulsive gambling education and awareness training program; entered into a contract with the State Council on Problem Gambling to provide public education and awareness programs, information and referral services, and training seminars for mental health professionals; and included in all of the tribal gaming compacts a provision that requires any civil fines collected by the Gambling Commission or Tribal Gaming Agency as a result of infractions of gambling laws be paid to the State Council on Problem Gambling.

The Lottery Commission provides funding for the 1-800 information and referral hotline operated by the State Council on Problem Gambling. The Lottery Commission, Gambling Commission and Horse Racing Commission, in cooperation with the State Council on Problem Gambling, jointly developed an informational brochure on compulsive gambling. This brochure is distributed state-wide to gambling licensees, lottery retailers, state and local government offices and other appropriate locations.

Enforcement of gambling laws. The Washington State Gambling Code includes procedures for the seizure and forfeiture of illegal gambling-related assets. This section of the gambling code has not been substantively amended since 1981, despite subsequent court decisions interpreting the drug forfeiture statute upon which the gambling forfeiture statute was modeled. The Gambling Commission and the Attorney General have expressed concerns about whether the commission can effectively administer this statute. Proceeds realized from the enforcement of this statute are paid into the state general fund if the property was seized by a state agency or to the local government if the property was seized by a local government law enforcement agency.

"Gambling devices" are prohibited in Washington. The gambling code definition of "gambling device" describes the characteristics of the machines, but does not specifically list the types of gambling devices. The Gambling Commission has uniformly applied the prohibition to slot machines and electronic gambling devices.

The provisions defining the criminal offenses of first and second degree professional gambling include as an element of the offenses that a certain volume of illegal activity must have occurred in any "calendar month." Courts have interpreted this to mean, for example, that if certain activities began on the 25th day of a certain month, then only those activities occurring before the first of the next month are counted toward the volume of illegal activity.

The director of the Gambling Commission may only appoint two assistant directors.

Recommendations of the Gambling Policy Task Force. In 1993, the Legislature adopted EHCR 4403, creating the State Gambling Policy Task Force. The task force was made up of 11 voting members: 10 legislators and the Governor's designee, and three nonvoting members: one representative each from the Horse Racing Commission, the Lottery Commission and the Gambling Commission. The purpose of the task force was to examine: (1) The current nature and scope of authorized gambling in the state; (2) the future of gambling in the state; (3) the need for defining a clear public policy on gambling; and (4) the feasibility of merging the Gambling Commission, Lottery Commission, and Horse Racing Commission into one state agency. The task force submitted its final report to the Legislature on January 1, 1994. The final report made several major recommendations, including:

(1) "The Legislature should codify the following statement of Washington's public policy toward gambling in statute: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

(2) The Legislature should amend the state lottery statute to require prior legislative approval of any on-line game operated more frequently than once every 24 hours.

(3) Services for problem and compulsive gamblers should continue to be offered. The Gambling Commission, the Lottery Commission, and the Horse Racing Commission should continue to provide resources for the support of these services. The Gambling Commission, Horse Racing Commission and Lottery Commission should jointly develop informational signs concerning problem gambling which include the toll free hot line number to be placed in the establishments of gambling licensees and lottery retailers.

(4) The Legislature should amend the gambling code to aid the Gambling Commission in enforcing the public policy of the state and in fighting illegal gambling. These changes should include: (1) clarifying the unconditional ban on slot machines and video gaming devices in Washington; (2) strengthening the Gambling Commission's authority to seize illegal gambling-related assets; and (3) streamlining the reporting requirements for commercial stimulant operators, to the extent that this can be accomplished consistently with the public policy of the state toward gambling.

Summary:

Public policy statement. The following statement of Washington's public policy toward gambling is codified: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

Frequency of Lottery games. Prior legislative approval is required before the Lottery may conduct any on-line game more frequently than once every twenty-four hours. "On-line game" is defined as a game in which the player pays a fee to a lottery retailer and selects a combination of numbers or symbols, and the Lottery separately selects the winning combination or combinations.

Problem and compulsive gambling. The Legislature recognizes that some people in Washington are problem or compulsive gamblers and that the state has the responsibility to continue to provide resources for the support of services for problem and compulsive gamblers. The Gambling Commission, Horse Racing Commission, and Lottery Commission are required to jointly develop informational signs about problem and compulsive gambling to be placed in gambling establishments.

Enforcement of gambling laws. Procedures for the seizure and forfeiture of gambling-related assets are updated. The changes are patterned after recent changes in the drug forfeiture statute. The changes provide greater protection for property owners who are unaware of the illegal activities being conducted on their property. The net proceeds of gambling-related property seizures are retained exclusively by the Gambling Commission to defray enforcement costs.

Gambling devices on cruise ships are exempt from the penalty and seizure provisions if the devices are not operated for gambling purposes within the state of Washington.

Slot machines, video pull-tabs, video poker, and electronic games of chance are specifically added to the definition of "gambling device."

References to "calendar month" in the provisions defining the crimes of first and second degree professional gambling are amended to read "thirty-day period."

The director of the Gambling Commission may appoint three assistant directors.

Votes on Final Passage:

House	91	5	
Senate	39	0	(Senate amended)
House	90	5	(House concurred)

Effective: April 1, 1994

SHB 2235

PARTIAL VETO

C 112 L 94

Clarifying the business and occupation tax on periodicals and magazines.

By House Committee on Revenue (originally sponsored by Representatives Cothern, Foreman, Thibaudeau, J. Kohl, L. Johnson, Ogden, Rust, Chappell, Van Luven, Brough, Brown and Cooke).

House Committee on Revenue
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 received by a business. Although there are several different B&O tax rates, the rates for most businesses range from 0.471 percent to 2.5 percent.

Before July 1993, publishers of newspapers, magazines and periodicals paid B&O tax at a rate of 0.484 percent of gross income. Legislation enacted in 1993 restricted this special rate to newspaper publishers. As a result, the rate for other types of publishers was increased to 2.13 percent. The rate for newspaper publishers was raised to 0.515 percent.

Cities and towns have general licensing powers that include the power to impose a fee or tax for the privilege of doing business within the city or town. These fees and taxes are often called "business and occupation taxes" and are often based on gross receipts.

Summary: The Business and Occupation tax rate for publishers of periodicals or magazines is reduced from 2.13 percent to 0.515 percent. "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

Juvenile newspaper carriers are exempt from state business and occupation taxes. They are also exempt from city and town licensing requirements. Persons employing juvenile newscarriers must notify each carrier that the exemptions will expire when the carrier reaches 18 years of age.

Votes on Final Passage:

House	87	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994

Partial Veto Summary: The veto removes the sections that exempt juvenile newspaper carriers from state business and occupation taxes. The veto also removes the section that requires employers to notify carriers that the exemption will expire when the carrier reaches 18 years of age.

VETO MESSAGE ON HB 2235-S

March 28, 1994

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 2 and 4, Substitute House Bill No. 2235 entitled:

"AN ACT Relating to business and occupation taxes for periodicals and magazines;"

This bill relates to reducing the business and occupation tax rate for publishers of newspapers, magazines, and periodicals and provides an exemption from state, city, and town business and occupation taxes for juvenile newspaper carriers.

Sections 2 and 4 of the bill provide a state business and occupation exemption for newspaper carriers under the age of eighteen. Another bill which passed this session, Substitute House Bill No. 2671, provides B&O tax relief for small businesses, and will effectively relieve juvenile newspaper carriers of all B&O tax liability. In addition, under Substitute House Bill No. 2671, these carriers will not have to pay a $15 fee to register with the Department of Revenue. As a result of this general tax relief for small businesses, sections 2 and 4 of Substitute House Bill No. 2235 are redundant and unnecessary.

With the exception of sections 2 and 4, Substitute House Bill No. 2235 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESHB 2237

C 219 L 94

Improving the efficiency of state facilities and the capital budget process.

By House Committee on Capital Budget (originally sponsored by Representatives Wang, Ogden, Sehlin, Silver, Linville, King, Flemming, Pruitt, Karahalios, Romero, Dunshee, Eide and Springer).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The state of Washington utilizes a wide variety of facilities to deliver programs and conduct business. The state obtains facilities through purchase, construction or by leasing from private owners. Most state leases run for five year terms.

The capital budget provides funding to state agencies to purchase, construct or refurbish state facilities. The operating budget provides funding for the operation and maintenance of facilities, including payments for leased or lease-purchased facilities.

In Thurston County, about one-half of the total space used by the state is leased from the private sector and one-half is owned by the state. Those agencies occupying leased space pay lease costs from their operating budgets. Most agencies occupying state-owned space, however, pay nothing toward the capital costs of the buildings they occupy.

The management and planning responsibility for state facilities is currently spread across several state agencies, including the Office of Financial Management (OFM), the Department of General Administration (GA), the Higher Education Coordinating Board (HECB), and the State Board for Community and Technical Colleges (SBCTC). The Governor, through OFM, is responsible for developing a long-range statewide capital plan. GA is responsible for providing central construction management and lease procurement services to other agencies. GA also manages and operates facilities on the capitol campus.

Over the past decade, more than a dozen studies have been conducted by executive, legislative and private agencies to evaluate the state's capital budgeting and facility procurement processes. Several of the recommendations from those studies have been implemented or are in the process of being implemented, and others are not yet complete. The following changes have been completed:

(1) Creation of a separate Capital Budget Committee in the House of Representatives;
(2) Identification and appropriation of debt service costs in the operating budget;
(3) Inclusion of reimbursement bonds that are paid from sources inside the state treasury within the 7 percent statutory debt limit. (Chapter 12, Laws of 1993, 1st Ex. Sess.);
(4) Development by the Governor of a 10-year capital spending plan and detailed six-year program plan listing specific projects. (Chapter 284, Laws of 1991);
(5) Addition of professional staff (architect and engineer) within the Office of Financial Management to review facility plans and funding requests;
(6) Adoption of a two-phase funding process for large capital projects that requires OFM to review and approve facility plans before construction funding is made available; and
(7) Creation of an accounting system within OFM to monitor capital project expenditures and schedules.

The following changes have been initiated but are not yet complete:

(1) Establishment of a system to charge agencies which occupy state-owned space for the capital costs of that space. OFM and GA were directed in the 1991-93 bond authorization act and the 1991-93 capital budget to develop a plan for assessing such charges;
(2) Establishment of a statewide inventory system to account for state-owned or leased facilities. OFM was directed to establish an inventory system by Chapter 325, Laws of 1993; and
(3) Collocation and consolidation of state facilities. The 1991-93 capital budget provided funding for GA to identify opportunities to collocate and consolidate state facilities.

Summary: Several changes are made to the procedures used in developing the capital budget, acquiring state-owned and leased facilities, and accounting for the cost of those facilities.

The Governor and OFM are required to develop a long-range facilities plan for the state that identifies and includes the highest-priority needs within affordable spending levels. To the extent possible, the Governor's capital budget proposal must reflect previous capital plans to provide a reliable long-range planning tool for the Legislature and state agencies. The capital budget document must disclose standard cost information for each capital project valued over $5 million. The following costs must be itemized: acquisition, design services, construction, equipment and project management. Operating budget impacts resulting from capital projects, including facility staffing and maintenance costs, must also be disclosed in the capital budget document.

Agencies must separately identify fiscal impacts on the operating and capital budgets when preparing fiscal notes on proposed legislation. Fiscal impacts must be calculated using procedures issued by OFM.

OFM must adopt procedures for reviewing major capital construction projects at the predesign stage to reduce long-term costs and increase facility efficiency. The procedures must include facility program evaluation, comparison to cost, quality and performance standards, value-engineering, and constructability review. No expen-

diture may be authorized for a major construction project until the allotment of funds is approved by OFM.

The Governor, through OFM, is authorized to transfer appropriations in excess of the amount needed to complete a project to another project within the same agency that has insufficient funds if express authority to make such transfers is provided in the Capital Appropriations Act. OFM must report any transfers to the fiscal committees of the Legislature.

A facilities acquired by the Department of General Administration for use by state agencies must meet standards approved by OFM unless the facility is specifically exempted from the standards by the director of GA.

GA is authorized to enter into leases greater than five years if the lease, as determined by OFM, provides a more favorable rate, the facility is necessary for the longer term, and the facility meets GA's standards. GA is authorized to enter into leases greater than 10 years in duration upon approval by OFM if a life-cycle cost analysis demonstrates that the lease is less costly than purchasing or constructing the facility.

It is the policy of the state to encourage the physical collocation and consolidation of state services. GA is to provide long-range planning services to identify collocation opportunities and develop procedures, in consultation with OFM, for implementing collocation and consolidation of state facilities.

GA must evaluate facility designs and budgets using life-cycle cost analysis and value-engineering prior to constructing or improving buildings.

GA is directed to assess a capital projects surcharge to agencies occupying GA owned and managed facilities in Thurston County beginning July 1, 1995. The surcharge does not apply to agencies that agree to pay all future improvements and repairs to the building they occupy or to agencies with existing agreements for a similar purpose. Surcharge rates must reflect differences in facility type and quality and may gradually increase over time. The initial surcharge will be $1 per square foot and then increase over time to $5 or the market rate for leased space whichever is less. Proceeds from the surcharge must be deposited into a new Thurston county capital facilities account created in the state treasury. Funds in the account are subject to appropriation and may be expended for capital rehabilitation projects in state facilities.

Beginning July 1, 1995, all occupants in new or substantially renovated state buildings in Thurston County shall proportionally share the debt service costs associated with the construction of renovation of the building. The charge may be less than the full cost of principal and interest if the charge is greater than market rates in the area. OFM is to develop procedures for the charge and report its recommendations to the Legislature. The amount of the charge shall be included in future budget documents.

The Superintendent of Public Instruction shall conduct a study of potential savings by building schools using standardized school construction designs.

The State Board of Education shall adopt rules to exclude space that has been donated to the school from other public or private entities when determining the amount of space eligible for state assistance for school construction.

OFM is directed to study the need for and potential responsibilities of a central facilities authority to increase the efficiency and quality of state facility decisions. OFM must report on the results of the study by January 10, 1995. OFM is also directed to review the state's public works bonding requirements and determine if alternative forms of security would provide the same level of protection to the state at lower cost.

Several expired bond authorization sections in existing statute are repealed.

Votes on Final Passage:

House	88	5	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	46	0	
House	91	4	

Effective: June 9, 1994
April 1, 1994 (Sections 8 and 9)

SHB 2239

C 80 L 94

Providing procedures for innovative prison construction.

By House Committee on Capital Budget (originally sponsored by Representatives Wang, Ogden, Sehlin, Silver, Jones, King, Karahalios, Eide and Springer; by request of Department of Corrections and Department of General Administration).

House Committee on Capital Budget
Senate Committee on Ways & Means
Senate Committee on Government Operations

Background: During the 1991 Legislative Session, the Department of Corrections (DOC) and the Department of General Administration (GA) were authorized to use an alternative form of public works contracting, known as the "General Contractor/Construction Manager" (GC/CM) method, to construct new prison facilities to accommodate the rapidly growing inmate population. Authority to use the GC/CM process was limited to projects over $10 million authorized during the 1991-93 biennium, and to contracts signed before July 1, 1996.

GC/CM differs from the traditional public works contracting process used by state and local governments in two major respects. First, the GC/CM process melds the architectural design and construction phases of a project

into one, allowing design and construction to occur simultaneously. Under GC/CM, an agency enters into two contracts - one with an architectural firm to design the facility, and one with a GC/CM firm to assist in developing and evaluating the facility design and to manage the construction. Most of the actual construction work under GC/CM is broken into parts and competitively bid to subcontractors using the public bid process. Second, the GC/CM firm is required to guarantee that the project will be constructed within a maximum allowable construction cost (MACC). If the total cost at completion of the project is greater than the guaranteed MACC, the additional cost is the responsibility of the GC/CM.

The GC/CM firm must be selected through a competitive process that includes prequalification of potential bidders based on their demonstrated professional, technical, and financial abilities, and final selection based on the lowest bid for GC/CM services. Each bid package for subcontractor work must meet or exceed specific goals for minority and women business enterprise participation. The GC/CM is prohibited from performing subcontract work. Subcontractors who bid work over $100,000 are required to post a bid bond. The GC/CM may also require performance and payment bonds on subcontract work over $100,000. GA is required to establish an independent oversight advisory committee to review GC/CM selection and contracting procedures.

Summary: The authority for GA and DOC to use the GC/CM process for prison construction projects is extended to July 1, 1997. In addition to the current authority to use GC/CM for projects valued over $10 million, DOC and GA are also authorized to use GC/CM for two demonstration projects that aggregate small capital projects at a single site to total at least $3 million.

The responsibilities of the existing Independent Oversight Advisory Committee are expanded. In addition to its previous responsibilities, the committee must also review contracting documents and the two demonstration projects.

Instead of specifying minority and women business enterprise participation goals for each subcontract bid package, GA must specify minority and women enterprise requirements for subcontract bid packages that exceed 10 percent of the total project cost.

The threshold for subcontractor posting of bid, payment, and performance bonds is raised to $200,000 from $100,000.

Votes on Final Passage:

House	51	42
Senate	47	1

Effective: March 23, 1994

HB 2242

C 220 L 94

Authorizing the department of corrections to transfer juveniles under age eighteen to juvenile correctional institutions.

By Representatives Leonard, Cooke, Wolfe, Morris, L. Johnson, J. Kohl, Roland, Karahalios and Springer; by request of Department of Corrections and Department of Social and Health Services.

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

Background: Any child under the age of 16 who is convicted of a felony crime and is committed for a term of confinement in an adult correctional facility may be transferred to a juvenile institution until the age of 18. This determination is made jointly by the secretary of the Department of Corrections and the secretary of the Department of Social and Health Services.

The average cost per year in Washington State for incarcerating an individual in an adult correctional facility is approximately $27,000. Juvenile institutional costs are approximately $48,000 per person per year.

Summary: The age at which a juvenile offender may be transferred from an adult correctional institution to a juvenile correctional institution is raised from age 16 to age 18. The age at which the transferred juvenile offender must be returned to an adult correctional facility is raised from age 18 to age 21.

A juvenile felony offender committed to an adult correctional facility may be placed in a juvenile institution by the secretary of the Department of Corrections, with the consent of the secretary of the Department of Social and Health Services, after the secretary of the Department of Corrections makes an independent assessment and evaluation of the juvenile offender and determines that the transfer is in the best interest of the juvenile offender.

Both the secretary of the Department of Corrections and the secretary of the Department of Social and Health Services are required to review regularly the juvenile offender's progress to determine which corrections system is the most appropriate institutional environment to house the juvenile offender.

Votes on Final Passage:

House	89	3
Senate	44	0

Effective: June 9, 1994

HB 2244

PARTIAL VETO

C 81 L 94

Changing provisions relating to classification of cities and towns.

By Representatives Dunshee, Horn, H. Myers and Springer.

House Committee on Local Government
Senate Committee on Government Operations

Background: A variety of different types of cities and towns may be created, including first class cities, second class cities, third class cities, towns, unclassified cities operating under territorial charters, and code cities. Currently there are no second class cities.

Perhaps the most fundamental difference in the statutes relating to different classes of cities and towns involves the array of elected officials for the class of city or town. Noncode cities and towns have a mayor/council plan of government, with different arrays of elected officials, unless the noncode city opts to have a council manager plan of government or a commission plan of government or the town opts to have a council manager plan of government.

Any noncode city or town may become a code city and may choose either to retain its own array of elected officials or to have the array of elected officials provided in code city statutes. Any code city may opt to have the array of elected officials that any other class of city or town may have.

Legislation was enacted in 1959 removing towns from any metropolitan park district and prohibiting a metropolitan park district from including a town.

Summary: Every third class city becomes a second class city. Many statutes relating to third class cities are altered by changing the term "third class" to "second class," and these amended statutes are recodified in second class city statutes. Many of the existing second class city statutes are repealed. General statutes that refer to a string of different classes of cities are altered to eliminate the reference to third class cities.

Statutes relating to the array of elected officials in a third class city are retained and become the provisions for the array of elected officials for a second class city. However, existing statutes relating to the array of elected officials in a second class city with a mayor/council plan of government are retained, limited to any code city that opted to retain such an array of elected officials.

Code city statutes are amended to state more clearly that any noncode city or town that becomes a code city may retain its old array of elected officials in lieu of the array of elected officials provided in code city statutes. The option of any code city to change to any plan of government and different array of elected officials is eliminated.

Statutes are clarified as to how a noncode city or town may change its class to another type of noncode city or town as the population of the city or town changes.

References to municipal corporations of the fourth class, or fourth class cities, are changed to towns.

The definitions of different classes of noncode cities and towns are clarified to acknowledge that a first class city is a noncode city with a population of 10,000 or more that has adopted a city charter.

The 1959 statutes are repealed detailing how assets are distributed to a town that is removed from a metropolitan park district.

Votes on Final Passage:

House	94	0
Senate	43	0

Effective: June 9, 1994

Partial Veto Summary: Two sections amending statutes were vetoed. These statutes were repealed elsewhere.

VETO MESSAGE ON HB 2244

March 23, 1994

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 2 and 73, House Bill No. 2244 entitled:

"AN ACT Relating to classifications of cities and towns;"

House Bill No. 2244 simplifies the statutes regarding the classification system for cities and towns. It also clarifies the forms of government that a noncode city may adopt upon becoming a code city. I am vetoing sections 2 and 73 of this bill because these sections of statute are repealed by other legislation enacted this session. Section 2, which amends 29.07.105 RCW, is repealed within section 53 of Substitute Senate Bill No. 6188, a bill relating to the National Voter Registration Act. Section 73, which amends 35A.29.150, is repealed within section 92 of Substitute House Bill No. 2278, a bill relating to local office vacancies. The repeal of these two sections of statute that occurs in the other pieces of legislation is a preferable approach for updating these outdated statutes.

With the exception of sections 2 and 73, House Bill No. 2244 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 2246

C 113 L 94

Changing provisions relating to substitute school employees.

By House Committee on Education (originally sponsored by Representatives B. Thomas, Dorn, Brough, Cothern,

Brumsickle, Pruitt, Dyer, Karahalios, Stevens, L. Thomas, Eide and Basich).

House Committee on Education
Senate Committee on Education

Background: Under current law, if the Superintendent of Public Instruction (SPI) or the state Board of Education requests a certificated employee of a school district to serve on a committee that would require the school district to hire a substitute, the superintendent and board are required to pay the school district for hiring the substitute.

When classified staff are asked to serve on committees, no similar reimbursement is required.

Summary: The board and SPI are required to pay school districts substitute costs for classified staff who serve on board and SPI committees.

Votes on Final Passage:

House	92	0
Senate	42	0

Effective: June 9, 1994

HB 2266

C 16 L 94

Authorizing public works board project loans.

By Representatives Moak, Ogden, Sehlin, Patterson, Wood and Springer; by request of Department of Community Development.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The public works trust fund was created by the Legislature in 1985 as a revolving loan fund program to assist local governments and special purpose districts with infrastructure projects. The Public Works Board, within the Department of Community Development, is authorized to make low-interest or interest-free loans to finance the repair, replacement or improvement of the following public works systems: bridges, roads, water systems, and sanitary and storm sewer projects. Growth-related public works projects, port districts and school districts are not eligible to receive loans through the Public Works Board.

The public works trust fund receives its funding from utility and sales taxes on water, sewer and garbage collection, from a portion of the real estate excise tax, and from loan repayments. The Department of Community Development received an appropriation of $93,876,640 from the public works trust fund for the 1993-95 biennium.

Each year, the Public Works Board is required to submit a list of 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.

Summary: As recommended by the Public Works Board for fiscal year 1994, the following are authorized: loans for 48 public works projects totaling $44,835,775; and a $1 million loan pool for emergency public works projects.

The public works projects authorized for funding fall into the following categories:

(1) 25 water projects for a total of $20,403,579;
(2) 10 sewer projects for a total $10,600,347;
(3) 8 road projects for a total of $8,068,649;
(4) 4 storm sewer projects for a total of $5,463,200; and
(5) 1 bridge project for a total of $300,000.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: March 21, 1994

SHB 2270

C 221 L 94

Revising provisions about probate and trust matters.

By House Committee on Judiciary (originally sponsored by Representatives Johanson, Padden and Appelwick).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: The law on probates and trusts governs the disposition of property upon a person's death and also controls the operation of living trusts. The last major amendments to this law were enacted in 1984. Since that time, a number of issues have arisen regarding the application of this law. The state bar association is proposing amendments to address issues in the following areas.

Jurisdiction and Proceedings. Provisions added by the 1984 amendments include special procedures for resolving disputes over the probate of wills and the administration of trusts and estates. Appellate court interpretation of these procedures may not have allowed as much flexibility for a trial court to tailor dispute resolutions as was intended by the amendments.

In addition, the procedures do not expressly cover the disposition of estates containing nonprobate assets. Nonprobate assets are rights and interests that pass at a person's death, but by virtue of specified instruments other than a will. Those instruments that create nonprobate assets include:

(1) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account;
(2) A payable-on-death, trust, or joint with right of survivorship bank account;
(3) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death; or

(4) A transfer on death beneficiary designation of a transfer on death or pay on death security, if the instrument is authorized under Washington law.

Creditors' Claims. Under current law, only probate assets are clearly subject to creditors' claims. Ambiguity exists as to whether nonprobate assets are subject to such claims. This ambiguity may lead to inequitable or unintended results by denying nonprobate assets the protections of the statute, or by causing creditors' claims against an estate to be charged against probate assets to the point of exhaustion before nonprobate assets are affected.

The Rule in Shelley's Case. Under the common law doctrine known as the rule in Shelley's case, whenever an instrument gave a remainder interest to an "heir," it was possible that the person receiving the preceding life estate or other temporary interest would be considered to have received an absolute ownership interest that defeated the remainder interest, regardless of the transferor's intent. The Legislature abolished this doctrine with respect to wills, but not with respect to nontestamentary instruments such as trusts. The majority of states have explicitly abolished the doctrine with respect to trusts as well as wills.

The Doctrine of Worthier Title. Another common law doctrine entitles the grantor of a trust to the return or "reversion" of property upon the death of a person receiving a temporary interest in the property, if the remainder is to pass to the grantor's "heirs." The operation of this doctrine is relatively rare, but can result in the inadvertent creation of a reversionary interest in the grantor that can cause adverse estate tax results.

Wills. The last general update of the wills portion of the probate and trust code was done in 1965. Many other states have adopted more modern provisions regarding wills, especially with respect to codicils, revocations, gifts to witnesses, proof of lost wills, and will contests.

Omitted Child or Spouse. Existing law requires that a child not named or provided for in a will, must receive a share of the estate equal to the share he or she would have received had there been no will, i.e., an intestate share. A similar rule applies to a spouse not named or provided for if the marriage occurred following the execution of the will.

Abatement of Probate and Nonprobate Assets. The problem of abatement arises if the decedent's assets are insufficient to fund fully all of the dispositions that are supposed to be made. A reduction in some or all of the dispositions is necessary to accommodate the shortage of available assets. Under the common law, all of the decedent's probate assets may be exhausted before any of the nonprobate assets are abated.

Lapsed Gifts. Several different sections of the current law deal with the question of lapsed gifts. A lapse occurs when a person who was to receive a gift under a will dies before the testator, and the gift was conditioned on the person surviving the testator.

Fiduciary Powers. Generally, a fiduciary is prohibited from self-dealing. That is, for example, a trustee may not invest funds from the trust in the trustee's own business.

Summary:

Jurisdiction and Proceedings. Any question that arises in the administration of an estate or trust, and not just those issues that have historically been within the jurisdiction of probate courts, may be resolved using the judicial or nonjudicial procedures of the probate and trust code. Nonprobate assets are expressly brought within the purview of the provisions relating to the disposition of estates.

Definition of "Nonprobate Asset." The definition of nonprobate asset is modified to exclude life insurance policies, annuities, and employee benefit plans.

Creditors' Claims. New provisions are added to the creditors' claim statute covering nonprobate assets.

The Rule in Shelley's Case. This common law doctrine is abolished with respect to nontestamentary instruments.

The Doctrine of Worthier Title. The doctrine of worthier title is limited to a narrow range of cases. It is to be used only as a rule of construction in cases involving a living trust of real property in which the grantor has made an express reservation to himself or herself and has specifically used certain terms to describe the reversion.

Wills. A "codicil" is defined as a will that modifies or partially revokes an existing will. A codicil need not refer to the prior existing will. Revocation of a will also revokes all that will's codicils, unless the testator intends otherwise. Provisions in a will are not rendered invalid just because the will is signed by a witness who is interested in the will. Unless there are at least two other noninterested witnesses, however, such a signature creates a rebuttable presumption of invalidity due to undue influence or fraud. The requirement that a lost or destroyed will must have been in existence at the time of the testator's death in order to be proved is removed, as is the alternative requirement of showing that the loss or destruction was the result of fraud, or of a failed attempt to change the will, or of mistake. Instead, a lost or destroyed will may be proved if its loss or destruction does not have the effect of revoking the will. The proof must be by clear, cogent and convincing evidence.

Omitted Child or Spouse. With respect to an omitted child born after the execution of a will, absent clear and convincing evidence that the omission was intentional, the child is to receive an intestate share. However, the court is given discretion to award less than a full intestate share of the estate. In exercising this discretion, the court is to consider factors including the nontestamentary disposition of assets by the deceased. Similar provisions are made for the case of an omitted spouse.

Abatement of Probate and Nonprobate Assets. The common law scheme of abatement is generally codified. Abatement is to occur in the following order:

(1) Intestate property;

(2) Residuary gifts;

(3) General gifts; and
(4) Specific gifts.

Nonprobate dispositions are abated ratably with probate assets based upon classification as a residuary, general, or specific gift.

Lapsed Gifts. New provisions are added to deal with the situation of multiple residuary beneficiaries when one or more residuary gifts lapse. A lapsed share in such a situation falls into the residue to be divided proportionately among the other residuary beneficiaries. Various technical and procedural changes are also made.

Fiduciary Powers. A bank acting as a fiduciary is not prohibited from investing the funds of a trust in an investment company solely because the bank has a relationship with the investment company. The kinds of relationships covered by this provision include the bank being paid by the investment company for services such as acting as an investment advisor, custodian, transfer agent, registrar, sponsor, distributor, or manager. Such fiduciary banks are given an exception from the prohibition against a fiduciary engaging in self-dealing.

Technical Amendments. An erroneous reference to "legal support obligation" is corrected to "legal obligation," and an erroneous reference to "testator's spouse" is corrected to "trustor's spouse." Sections of law that refer to the federal internal revenue code are updated to reflect the most recent version of the federal law.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	48	0	
House	97	0	

Effective: June 9, 1994
January 1, 1995 (Sections 1, 2 and 4-72)
April 1, 1994 (Section 3)

HB 2271

C 17 L 94

Providing for funeral director and embalmer disciplinary procedures.

By Representatives Springer and Chandler; by request of Department of Licensing.

House Committee on Health Care
Senate Committee on Government Operations

Background: The regulation of funeral directors and embalmers by the Department of Licensing currently includes the disciplinary provisions of the Uniform Disciplinary Act governing the health professions.

However, the funeral and embalmer regulatory program was not among the health-related regulatory programs transferred from the Department of Licensing to the Department of Health when the latter was created in 1989, because the funeral profession is not considered a health-related profession. However, the funeral profession is still governed by the health-related disciplinary law.

Summary: New disciplinary procedures and sanctions for unprofessional conduct are provided for funeral directors and embalmers that generally parallel the disciplinary provisions of the Uniform Disciplinary Act.

Votes on Final Passage:

House	93	0
Senate	40	0

Effective: June 9, 1994

SHB 2274

C 222 L 94

Establishing credit equivalencies for high school students attending institutions of higher education.

By House Committee on Education (originally sponsored by Representatives Quall, Carlson, R. Meyers, Brough, Basich, Karahalios, Peery, Kessler, Eide, L. Johnson, Linville, Shin, Hansen, Talcott, Long, Van Luven, Cooke, Veloria, Scott, Johanson, Finkbeiner, Dunshee, Schoesler, Mastin, Pruitt, Wineberry, King, Conway, Kremen, Springer and H. Myers).

House Committee on Education
Senate Committee on Higher Education

Background: The Legislature has instructed the state Board of Education (SBE) to establish minimum high school graduation requirements or equivalencies. In response to this directive, the board adopted a definition of high school credits in 1984. The definition was modified in November 1993.

Prior to the change in November 1993, five college quarter hour credits equaled a high school credit, which is equal to a 180-day high school class. The new rule states that five college quarter hours equal.75 of a high school credit.

Under the new rule, a high school student who attends college full-time will earn 6.75 high school credits annually, compared to nine high school credits prior to the rule change. A regularly enrolled high school student earns six high school credits annually.

Summary: The SBE agrees to delay implementation of its rule establishing course equivalencies until September 1995.

By May 1, 1994, the Higher Education Coordinating Board (HECB) and the SBE will convene a task force for ongoing discussions of curriculum issues that transect higher education and the common schools. The task force is to provide the boards with advice and counsel on rules

and policies that have implications for students in both levels.

By December 30, 1994, the HECB and the SBE are to report their recommendations on credit equivalencies to the House and Senate Education and Higher Education Committees.

Votes on Final Passage:

House	81	13	
Senate	45	0	(Senate amended)
House	80	9	(House concurred)

Effective: April 1, 1994

HB 2275

C 114 L 94

Modifying the emergency mortgage and rental assistance program for dislocated forest products workers.

By Representatives Kessler, H. Myers, Springer, Jones, Morris, Sheldon, Wineberry, King, Campbell, Holm, Chandler and Foreman; by request of Department of Community Development.

House Committee on Trade, Economic Development & Housing
House Committee on Appropriations
Senate Committee on Trade, Technology & Economic Development

Background: The 1991 Legislature created the Emergency Mortgage and Rental Assistance Program to provide financial assistance to households unable to make either mortgage or rent payments due to loss of employment in the timber industry. The Department of Community Development administers the program.

The Department of Community Development makes grants to local organizations that develop and administer local mortgage and rental assistance programs. Emergency mortgage assistance loans are limited to 24 months or $20,000. Emergency rental assistance loans or grants are limited to 24 months.

An informal attorney general opinion indicates that the law is not clear on: (1) whether local organizations can retain loan repayments of emergency mortgage or rental assistance to continue assisting dislocated forest products workers, or (2) whether loan repayments of emergency mortgage or rental assistance are to be returned to the Department of Community Development.

Summary: The Department of Community, Trade, and Economic Development is authorized to make grants to local organizations. The local organizations are authorized to establish a revolving grant and loan fund to receive repayments of mortgage and rental assistance. Repayments are to be used to provide additional financial assistance to households unable to make either mortgage or rent payments due to loss of employment in the timber industry.

Local organizations that dissolve or become ineligible must assign all repayments of mortgage or rental assistance to the local county government. If the local county government declines to operate the program, the mortgage and rental repayments must be returned to the Department of Community, Trade, and Economic Development.

The June 30, 1996 application deadline for participants to request mortgage and rental assistance from the local organization is eliminated.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 1994

SHB 2277

C 115 L 94

Changing teacher evaluations for teachers with at least four years of satisfactory evaluations.

By House Committee on Education (originally sponsored by Representatives Jones, Dorn, R. Meyers, Schmidt, Pruitt, Karahalios, Holm, Kessler, Zellinsky, Brough, Mastin, Patterson, Basich and J. Kohl).

House Committee on Education
Senate Committee on Education

Background: Under current law, classroom teachers and other certificated support staff must be observed twice during the school year for a total of 60 minutes with a written evaluation following each observation. This evaluation is often referred to as a "summative" evaluation.

After four years of employment, this evaluation procedure is only required every third year. During the other two years, a "short evaluation" is permitted with either a 30 minute observation and a written evaluation, or two observations for a total of 60 minutes without a written summary. This short evaluation cannot be used to determine if an employee's work is unsatisfactory.

Summary: School districts are given more discretion in evaluating certificated classroom teachers or certificated support staff who have received satisfactory evaluations for four years. For such employees, districts may use a "short evaluation," a locally bargained evaluation emphasizing professional growth, or a summative evaluation.

However, a summative evaluation is required every three years, unless this time period is extended by the school district under the bargaining process.

Votes on Final Passage:

House	88	2
Senate	31	18

Effective: September 1, 1994

SHB 2278

PARTIAL VETO

C 223 L 94

Making laws relating to local government office vacancies more uniform.

By House Committee on Local Government (originally sponsored by Representatives Horn, H. Myers, Edmondson and Springer).

House Committee on Local Government
Senate Committee on Government Operations

Background: Over 65 different types of special districts may be created in this state. Separate statutes exist for most of these special districts. Many special districts are governed by a governing body composed of elected officials, while some governing bodies consist of appointed officials. All special district elected officials are elected at nonpartisan elections.

Seven different types of cities and towns may be created in this state, each governed by separate statutes. Cities and towns are governed by elected councils or commissions. Some cities and towns have mayors with executive authority who are not part of the council. Other cities or towns have a council member who is nominally referred to as a mayor, but the mayor has no executive authority. All city and town elected officials are elected at nonpartisan elections.

General election law exists for elections in special districts where property ownership is not a qualification of voting and for elections in cities and towns. However, certain provisions of city, town, or special district laws provide for election matters differing from general election law. It is most common for a city, town, or special district to conform with general election laws instead of the specific laws for the city, town, or special district that conflict with the general election law. However, in some instances, the specific election laws for a city, town, or special district are followed instead of general election law.

Summary: Many of the specific provisions of law relating to the election procedures for cities, towns, and special districts where the franchise is not limited to property owners are altered to conform with the practices of general election law.

(1) Filling Vacancies.

A common procedure is established to fill vacancies on the governing bodies of cities and towns, as well as the elected governing bodies of special districts where the franchise is not limited to property owners.

The remaining members of the governing body appoint someone to fill the vacancy. If the appointment is not made within 90 days of the vacancy, the authority to make the appointment reverts to the county legislative authority of the county in which all or the largest geographic portion of the local government is located. If the county legislative authority fails to make the appointment within 180 days of the vacancy, the county or remaining members of the local governmental governing body may request the governor to make the appointment.

Where less than two members of the governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the government is located appoints either one or two persons to bring the governing body up to two persons.

(2) Occurrence of a vacancy.

General provisions of law detailing when a vacancy occurs in an elected office are cited in the specific laws for cities, towns, and special districts where the franchise is not limited to property owners.

(3) Wards or commissioner districts.

The use of wards, council districts, or commissioner districts is standardized for nonpartisan local governmental governing bodies, other than school districts, that are permitted to use wards, council districts, or commissioner districts.

Wards, council districts, or commissioner districts are to be used for: (1) Residency purposes where a candidate for the position must reside in the ward or district; and (2) nomination purposes where only voters residing in a ward or district vote at a primary election to nominate candidates for the position.

Wards, council districts, or commissioner districts are not to be used at the general election, and the voters throughout the entire local government area vote on an at-large basis to elect each member of the governing body at the general election. However, a city may continue using wards to limit voters at general elections who elect council members if these restrictions existed prior to January 1, 1993.

(4) Other provisions.

Statutes relating to ferry districts are repealed.

Voters of a public utility district with a population of 500,000 or more may approve a ballot proposition increasing the size of the commission from three to five members. The board of commissioners of a sewer district or a water district where the districts have more than 10,000 customers may adopt a resolution by a simple majority vote, instead of a unanimous vote, to increase the size of the commission from three to five members.

Various changes are made concerning elections in port districts, including the use of commissioner districts in port districts with less than 500,000 population and the size of the port commission in a proposed port district that is less than countywide.

Votes on Final Passage:

House	86	0	
Senate	48	0	(Senate amended)
House	91	0	(House concurred)

Effective: June 9, 1994

Partial Veto Summary: The Governor vetoed several sections that amended various statutes. These statutes were repealed elsewhere.

VETO MESSAGE ON HB 2278-S

April 1, 1994

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 14, 15, 18, 20, and 37, Substitute House Bill No. 2278 entitled:

"AN ACT Relating to local government election practices;"

Sections 14, 15, and 18 amend sections of the RCW that are repealed in sections 89(8), 89(20), and 89(34) respectively of Substitute House Bill No. 2244. The substance of the amendatory language in these three sections is included in other sections of Substitute House Bill No. 2244. Section 20 amends a section of the RCW that is also repealed in section 89(37) of Substitute House Bill No. 2244. The substance of the amendatory language in this section is included in current law. Section 37 amends RCW 35A.14.060, which is repealed by section 92(10) of Substitute House Bill No. 2278. The substance of this amendatory language is included elsewhere in Substitute House Bill No. 2278. By vetoing these sections, duplication and confusion will be avoided in these statutes.

With the exception of sections 14, 15, 18, 20, and 37, Substitute House Bill No. 2278 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

HB 2282

C 18 L 94

Providing that a district court judge's salary is not reduced when a pro tempore judge serves due to an affidavit of prejudice.

By Representatives Holm and Appelwick.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: District Court judges are authorized to use pro tempore judges under certain circumstances. Pro tempore judges may be used during the "absence, disqualification or incapacity" of a judge. However, a judge may use pro tempore judges for a maximum of 30 days per year at county expense. With two exceptions, a judge who uses a pro tempore judge for more than 30 days in a year will incur a pro rata reduction in the judge's salary. The exceptions are for use of a pro tempore judge while the judge is on authorized sick leave or for up to 15 days while the judge is serving on judicial commissions. If a District Court judge exceeds the 30-day limit for any reason other than these two exceptions, the judge's salary is reduced for each day a pro tempore judge is used.

There are at least two ways that a county can provide additional help to a District Court judge other than by the employment of a judge pro tempore. First, one or more court commissioners may be employed. However, commissioners are permanent rather than temporary employees. Second, counties are authorized to borrow judges from other counties on a temporary basis. The process for borrowing judges is fairly complex and depends on the availability of a judge in another county.

A party to a lawsuit may file an "affidavit of prejudice" against the judge in the case. This affidavit may be filed as a matter of right at any time before the judge has made a discretionary ruling in the case, and it prevents the judge from hearing the case.

Particularly in districts with only one judge, the filing of an affidavit of prejudice against the judge may lead to the use of a pro tempore judge.

Summary: An additional exception is added to the 30-day limit on a District Court judge's use of judges pro tempore. A judge's salary will not be reduced if the reason a judge uses a pro tempore judge is that the judge is disqualified by an affidavit of prejudice.

Votes on Final Passage:

House	90	0
Senate	44	0

Effective: June 9, 1994

SHB 2294

C 116 L 94

Allowing two-year levies for the acquisition of motor vehicles for student transportation.

By House Committee on Education (originally sponsored by Representatives Patterson, G. Fisher, Dorn, Brough, Karahalios, Cothern, Campbell, Shin, Basich, Springer, B. Thomas, Holm and J. Kohl).

House Committee on Education
House Committee on Revenue
Senate Committee on Education

Background: Length of Levies. The Washington State Constitution places a number of restrictions on the use of special property tax levies by local governments. For most local governments, special levies may only raise taxes for one year.

However, the constitution gives school districts two exceptions:

(1) propositions for the "support of the common schools" may levy a tax for a two-year period; and
(2) propositions "to support the construction, modernization, or remodelling of school facilities" may levy taxes for a period of up to six years.

When implementing the two-year levy provision of the constitution, state statutes do not refer to the "support of common schools" but to "maintenance and operation support." The phrase "maintenance and operation support" has been interpreted to not include the purchase of school buses. Under this interpretation, school districts may only have one-year levies for the purchase of school buses.

Levy Lid. State law places a limit, or "lid", on the amount of funds school districts may raise for maintenance and operation through special property tax levies. The levy limit varies among districts depending on the district's maximum levy rate and the amount of specified state and federal revenues received by the district.

Summary: State law is amended to specifically allow two-year levies for the purchase of school buses. In addition, these transportation levies are specifically excluded from the levy lid.

Votes on Final Passage:

House	93	1
Senate	47	0

Effective: June 9, 1994

HB 2300

C 224 L 94

Revising provisions relating to offender eligibility for unemployment compensation benefits.

By Representatives Morris, Padden, Long, King and Brough; by request of Department of Corrections and Employment Security Department.

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

Background: The Division of Correctional Industries develops and implements programs designed to offer inmates employment, work experience and training, and to reduce the tax burden of corrections. Products and services provided by Correctional Industries' programs are offered to the public, governmental agencies, non-profit organizations and the correctional system. The Division of Correctional Industries operates five classes of work programs. One of these work programs, "Class I: Free Venture Industries," allows private sector companies to set up factories within the corrections institutions. Inmates who work in Class I Free Venture Industries must be paid a wage comparable to the wage paid for similar work in the locality as determined by the director. If the director cannot reasonably determine the comparable wage, then the pay may not be less than the federal minimum wage.

In general, an incarcerated individual is disqualified from receiving unemployment benefits under the state's unemployment insurance law because he or she is not available for work. However, the unemployment insurance law does not require a worker who is on standby status with an employer to be available for other work to receive benefits. Therefore in certain situations, it is possible for an inmate to be eligible to receive unemployment benefits.

Summary: An inmate who is employed in the Class I program of correctional industries is ineligible for unemployment compensation benefits until he or she is released on parole or discharged.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994

EHB 2302

C 117 L 94

Modifying provisions relating to sale or lease of irrigation district real and personal property.

Representatives Rayburn, Foreman, Hansen and Bray.

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: A provision of the state's irrigation district laws establishes procedures that apply to the lease or sale of district-owned properties. The provision does not apply to the properties irrigation districts have obtained through foreclosure proceedings for delinquent district assessments. A statute governing the lease and sale of district properties obtained in this manner was repealed in a bill which re-wrote the rules for such delinquency and foreclosure. The repealed authority may have been replaced by implied authorities to sell and lease such properties. However, as a result of the repealer, the rules that apply to such sales or leases are unclear.

Current law governing the lease or sale of irrigation district property requires the district to publish in a local newspaper a notice of the district's intent to sell or lease the property. The notice must identify the time and location at which the district will consider bid proposals. The property must be sold or leased to the highest and best bidder and, except for property dedicated to certain highway or utility easements, must not be less than the reasonable market value of the property.

Summary: The procedures established by statute for leasing or selling irrigation district property apply to properties obtained by a district through foreclosure proceedings for delinquent district assessments. A notice regarding the sale or lease of any real property owned by an irrigation district is to announce whether the sale or lease is to be negotiated by the district or is to be awarded by bid.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: June 9, 1994

E2SHB 2319

PARTIAL VETO

C 7 L 94 E1

Enacting programs to reduce youth violence.

By House Committee on Appropriations (originally sponsored by Representatives Appelwick, Leonard, Johanson, Valle, Wang, Wineberry, Scott, Karahalios, Caver, Kessler, Basich, Wolfe, J. Kohl, Veloria, Quall, Holm, Jones, Shin, King, Patterson, Eide, Dellwo, L. Johnson, Springer, Pruitt, Ogden, H. Myers and Anderson; by request of Governor Lowry).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Health & Human Services
Senate Committee on Ways & Means

Background:

PART I. INTENT

Violence committed by youth and directed toward youth is a serious problem affecting a large number of children and families. Causes of violence are complex and interrelated, and they cross economic and social boundaries. The incidence of child abuse, domestic violence, use of alcohol and drugs, poverty and the easy availability of firearms are all related in some manner to the level of violence in our communities.

PART II. PUBLIC HEALTH

The collection of data related to violence occurs in several local and state agencies. There are currently no consistent guidelines for the collection and analysis of data related to violence.

PART III. COMMUNITY NETWORKS

Services for children and families are provided through a wide array of state and local agencies at the local level. Although efforts to improve coordination and collaboration exist in some portions of the state, there is no uniform policy and process to ensure that community-based planning and service delivery for children and their families are instituted across the state.

PART IV. FIREARMS AND OTHER WEAPONS

Terms such as "tidal wave," "epidemic," and "unprecedented" have been used by the media and others to describe the escalating incidence of violence in the United States, particularly violence among juveniles. In the search for solutions, attention has been drawn to the availability of firearms and the role firearms play in violence.

Some commentators blame the ready availability of firearms for the tremendous personal and societal losses currently resulting from accidental or intentional misuse of firearms. Other persons are concerned that restricting firearm availability will infringe upon the right of a law-abiding citizen to keep and bear arms.

Washington courts have held a citizen's right to possess and use firearms is subject to reasonable state regulation under its police power. To meet the test of reasonableness, the regulation must be reasonably necessary to protect the public safety, health, morals and general welfare, and it must be substantially related to the legitimate ends sought.

FIREARMS AND JUVENILES.

State and federal laws prohibit the transfer of handguns to persons under the age of 21. Federal law also prohibits the transfer of rifles and shotguns to persons under the age of 18.

However, neither state nor federal law expressly prohibits persons under the age of 21 from possessing firearms or from carrying firearms in public, as long as the firearms are carried openly rather than concealed, and are not carried in a manner intentionally intimidating or warranting alarm. One exception is that Washington law prohibits juveniles under the age of 14 from possessing any firearm, except under the supervision of a parent, guardian, other adult approved by the parent or guardian, or under the supervision of a certified safety instructor. Juveniles under the age of 14 who illegally possess a firearm, or persons who aid or knowingly permit a juvenile to illegally possess a firearm, are guilty of a misdemeanor.

The Youth Handgun Safety Act of 1993, currently pending in Congress, would make it illegal to transfer a handgun or handgun ammunition to a juvenile under the age of 18 unless an enumerated exception applied. The act also would make it illegal for the juvenile to possess either a handgun or handgun ammunition, unless an enumerated exception applied. Violators of the act could be incarcerated for one year, fined or sentenced to probation. The act also would amend the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) to allow the incarceration of juveniles who illegally possess firearms, without jeopardizing a state's funding under the JJDPA.

The JJDPA provides formula grants to states and local governments for juvenile delinquency programs and to improve the juvenile justice system. To qualify for a grant, a state must refrain from placing juveniles in secure detention or correctional facilities for status offenses, that is, offenses that would be legal if the juvenile were an adult. Washington reportedly receives approximately $1 million under the JJDPA.

FIREARMS AND OTHER PERSONS.

Persons Disqualified from Possessing Pistols. Current state law makes it a class C felony for a person to possess a pistol if he or she has been convicted of a crime of violence, a felony in which a firearm was used or displayed, a felony violation of the Uniform Controlled Substances Act, or if he or she has been involuntarily committed for mental health treatment. With the exception of persons involuntarily committed for mental health treatment, such persons are not disqualified from possessing other types of firearms, such as rifles or shotguns.

Persons ineligible to possess a pistol are also ineligible for a concealed pistol license. Under current law, a person convicted of assault in the third degree, indecent liberties, malicious mischief in the first degree, possession of stolen

property in the first or second degree, or theft in the first or second degree is qualified to possess a pistol but not qualified for a concealed pistol license. (The reference to indecent liberties includes only indecent liberties other than by forcible compulsion, because indecent liberties by forcible compulsion is included in the definition of a crime of violence.)

Persons ineligible to possess a firearm due to involuntary commitment for mental health treatment, and persons who are ineligible for a concealed pistol license but are eligible to possess a pistol, may have their rights restored if certain conditions are met.

Restoration of Rights. A person ineligible to possess a pistol because of involuntary mental health commitment may petition a court to have his or her right to possess a pistol restored. The court must immediately restore the right upon a showing that the person is no longer required to participate in a treatment program and is no longer required to take medication to treat a condition related to the commitment. There is no requirement to show that the condition leading to the commitment no longer exists and is unlikely to recur. Although the right to possess a pistol must be restored by a court, current law requires the Department of Social and Health Services (DSHS) to develop rules to create an approval process for the restoration of such rights.

A person eligible to possess a pistol, but ineligible for a concealed pistol license because of having been convicted of an enumerated crime, may petition a District Court to have his or her eligibility restored after one year following successful completion of his or her sentence, provided he or she has not again been convicted of, and is not under indictment for, any crime.

Delivery of Pistols. A current state statute makes it a misdemeanor to deliver a pistol to someone under the age of 21, or where there is reason to believe the recipient has been convicted of a crime of violence or is a drug addict, habitual drunkard or of unsound mind. The terms "drug addict," "habitual drunkard," and "unsound mind" are undefined. In addition, the statute does not make it illegal to deliver a rifle or shotgun to a person in any of the listed groups.

Carrying Firearms. A person carrying a concealed or loaded pistol in a vehicle must have a concealed pistol license unless an exception applies. However, there are few other restrictions on the manner in which a person may carry a firearm. The primary restrictions prohibit, with some exceptions, a person from carrying any firearm in a manner intentionally intimidating or warranting alarm, or carrying a loaded shotgun or rifle in a vehicle. Carrying loaded pistols that are visible, or loaded rifles or shotguns outside of a vehicle, is permissible as long as the firearms are not carried in an intentionally intimidating or alarming manner.

CONCEALED PISTOL LICENSES.

Unless an exception applies, a person may carry a concealed pistol without a concealed pistol license only at home or at a fixed place of business. Only persons with concealed pistol licenses, or persons covered by an exception, may carry a loaded pistol in a vehicle. Carrying a pistol outside of these limitations is a misdemeanor.

Applications. An applicant must meet several requirements to qualify for a concealed pistol license. For example, an applicant must be at least 21 years of age, must not have been convicted of specified crimes, and must not be subject to a court order or injunction regarding firearms under specified domestic violence or marital dissolution statutes.

An applicant may apply for a license anywhere in the state, regardless of where the applicant lives.

There have been reports of issuing authorities refusing to accept applications for concealed pistol licenses during normal business hours.

Making a false statement regarding citizenship or other information on a concealed pistol license application is a misdemeanor, but there is no explicit requirement that the issuing authority, usually a law enforcement agency, verify the information on the application.

The issuing authority sends copies of issued concealed pistol licenses to the Department of Licensing (DOL).

License Revocation. The license-issuing authority is to revoke the license of a person convicted of a crime that makes the person ineligible to own or possess a pistol, or upon the third conviction within five years of a violation of the firearms and dangerous weapons statutes. There is no express requirement that the license-issuing authority revoke the license of a person committed for mental health treatment or of a person ineligible for a license at the time of application. There also is no direction to a court regarding whether the court should require a person subject to a harassment, domestic violence, or other domestic relations protective order to surrender a concealed pistol license, a firearm, or other dangerous weapon.

Licensing Fees. The current fee for an original license is $23, and its distribution is set by statute: $4 to the state general fund, $4 to the agency taking the fingerprints, $12 to the issuing authority, and $3 to the firearms range account. The license must be renewed every four years.

The issuing authority's $12 share has remained the same since 1983, when the share was raised from $1.50. At the same time, the total cost of an original license was raised from $5 to $20. In 1988, the total cost was raised $3 to the current cost of $23, with the additional $3 earmarked for the firearms range account.

The current fee for a renewal license is $15, with $4 distributed to the state general fund, $8 to the issuing authority, and $3 to the firearms range account. As with original licenses, the fee for a renewal license was raised $3 in 1988, with the increase allocated to the firearms

range account. Again, the issuing authority's share has remained constant since 1983.

A late fee of $10 is assessed for a license not renewed within 90 days of expiration, with $3 allocated to the state wildlife fund and $7 allocated to the issuing authority.

FIREARMS DEALERS.

State law requires retail pistol dealers: (1) to be licensed; (2) to conduct business only in the building designated in the license; (3) to display the license on the premises; (4) to sell pistols in accordance with state laws and only to purchasers personally known to the seller or who present clear identification; and (5) to keep detailed sales records. These requirements do not apply to dealers who sell only shotguns and rifles, or to dealers or other persons who sell ammunition but do not sell pistols.

Deliveries to Purchasers. Dealers also must: (1) withhold delivery of a pistol until specified conditions are met (the purchaser produces a valid concealed pistol license, the dealer receives word from the law enforcement agency of the jurisdiction in which the dealer resides that the application to purchase is granted, or the requisite time elapses) ; (2) require a purchaser to complete an application providing various information and deliver the application to the local law enforcement agency; or (3) give a purchaser a copy of the Department of Wildlife pamphlet concerning firearms laws and safety. The same restrictions do not apply to sales of rifles or shotguns.

Failure to comply with a requirement is a misdemeanor and is to result in license forfeiture.

Making a false statement on a purchase application is a misdemeanor, but law enforcement agencies are not explicitly required to verify that an applicant is eligible to purchase a pistol.

State law does not define a "dealer," but it does define a "commercial seller" to mean anyone who has a federal firearms license.

Licensing. Federal law requires dealers in all types of firearms to be licensed. A "dealer" under federal law is any person who is: (1) engaged in the business of selling firearms at wholesale or retail; (2) engaged in the business of repairing firearms or of making or fitting special barrels, stocks or trigger mechanisms to firearms; or (3) a pawnbroker whose business includes receiving firearms as security for payment.

The term "engaged in the business" in the federal definition means a person who devotes time, attention and labor to dealing in firearms as a regular course of trade or business, with the principal objective of livelihood and profit through repetitive dealing in firearms. It does not include a person who makes occasional sales, exchanges, purchases, repairs or other transactions involving firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of a personal collection of firearms.

The screening process for a federal dealer's license is more extensive than that for a state dealer's license. As with state law, to qualify for a federal license the applicant must have premises from which to conduct business. Although a license is required for each of the premises, an exception is made for gun shows.

DOL reportedly processes approximately 580 original and approximately 1,600 renewal applications for dealer licenses per year. According to the Bureau of Alcohol, Tobacco and Firearms (ATF), over 6,000 federally licensed dealers list the state of Washington as their place of business. The Brady Bill recently raised the cost of a three-year federal license (original or renewal) from $30 to $200 for the initial three-year license, and $90 for a three-year renewal license. A state dealer's license costs $5 and must be renewed annually.

It has been suggested that some persons with federal licenses are not actually engaged in the business of selling firearms but rather are licensed primarily for the advantage of being able to purchase firearms at lower prices than an unlicensed consumer would pay.

CONFIDENTIALITY.

DSHS, mental health institutions, and other health care facilities must supply information relevant to determining a person's eligibility to possess a pistol or concealed pistol license upon written request from courts or law enforcement agencies. There is no specific requirement that the person authorize the disclosure of such information.

The information provided is to be used exclusively for the purpose of determining the person's eligibility to possess a pistol or for a concealed pistol license, and it is not to be made available for public inspection except by the person who is the subject of the information. The statute imposing the requirement was enacted in 1983. However, the Uniform Health Care Information Act, enacted in 1991, specifies some circumstances in which a health care provider may deny a person his or her health information, such as when release of the information could reasonably be expected to endanger someone's life or safety.

Applications for concealed pistol licenses are exempt from public disclosure, except to law enforcement and corrections agencies. The same is not true of applications for alien firearm licenses or to purchase pistols, or records of pistol transfers.

DOL keeps records of purchase applications and pistol transfers but is not expressly authorized by statute to do so. Law enforcement agencies check DOL records when a specific firearm is involved in the investigation of a crime.

PREEMPTION.

Since the state has preempted the area of firearms regulation, counties, cities and other municipalities may enact only those ordinances specifically authorized by state law. Currently, counties, cities and other municipalities may adopt ordinances restricting the discharge of firearms in areas where persons, domestic animals or property would be jeopardized and may restrict possession of firearms in stadiums or convention centers unless the person has a concealed pistol license. Counties and cities are not author-

ized to regulate, through zoning, where firearms may be sold.

SCHOOL GROUNDS.

During the 1993 session, the Legislature amended the law governing firearms and other dangerous weapons on school grounds. Unless an exception applies, the law now prohibits any person from carrying firearms or other dangerous weapons onto school premises, onto school-provided transportation, or into areas of facilities while being used exclusively by schools.

The current state law does not specifically address a situation where a person has possession of a firearm or other dangerous weapon on, but may not have carried the weapon onto, school premises.

Several exceptions concern weapons in vehicles. Any person conducting legitimate business at the school may have a firearm or other dangerous weapon if the weapon is: (1) secured in an attended vehicle; (2) concealed in a locked, unattended vehicle; or (3) unloaded and secured in a vehicle. Current firearm laws do not prohibit any person 14 years of age or older from possessing firearms, and they do not prohibit the delivery of firearms other than pistols to anyone under the age of 21. Some persons have argued "conducting legitimate business at the school" includes attending school or after-school events as a student.

Carrying firearms or other dangerous weapons in violation of the statute is a gross misdemeanor and subjects a student to expulsion. "Expulsion" is, by definition, for an indefinite period of time.

JUVENILE DRIVING PRIVILEGES.

Currently, a court is required to notify DOL if the court has found that a juvenile between the ages of 13 and 18 has violated the state's drug or alcohol control laws.

Upon receiving the notice and without a hearing, DOL must revoke the juvenile's driving privileges. For a first notice, DOL revokes the privileges for one year, or until the juvenile reaches 17 years of age, whichever is longer. For a subsequent notice, DOL revokes the privileges for two years, or until the juvenile reaches 18 years of age, whichever is longer.

A juvenile may petition the court for earlier reinstatement of driving privileges. The court may, at any time the court deems appropriate, notify DOL that the juvenile's driving privileges should be reinstated. However, for a first offense, the juvenile must wait to petition the court until 90 days after the date he or she turns 16, or 90 days after the judgment was entered, whichever is later. For a subsequent offense, the juvenile must wait until he or she turns 17, or one year after the date the judgment was entered, whichever is later.

Similarly, if a juvenile enters into a diversion agreement for a violation of the drug or alcohol control laws, the diversion unit must notify DOL after the diversion agreement is signed. Upon receiving the notice and without a hearing, DOL must revoke the juvenile's driving privileges.

The diversion unit also must notify DOL once the juvenile has completed the agreement so DOL can reinstate the juvenile's driving privileges. However, for a first offense, DOL cannot reinstate the driving privileges until the later of 90 days after the date the juvenile turns 16, or 90 days after the juvenile entered into the diversion agreement. For a subsequent offense, DOL cannot reinstate the juvenile's driving privileges until the later of the date the juvenile turns 17, or one year after the juvenile entered into the diversion agreement.

No similar provisions exist to revoke the driving privileges of juveniles who illegally possess firearms in a vehicle, or who commit offenses while armed with a firearm that involve the use of a vehicle.

MISCELLANEOUS PROVISIONS.

Immunity. The Brady Bill gives immunity to local governments and local and federal governmental employees responsible for providing information to the national instant criminal background check system. The immunity extends to failing to prevent the sale of a firearm to a person ineligible to possess a firearm and to preventing the sale of a firearm to a person eligible to possess a firearm.

An applicant may bring a civil suit to enjoin a wrongful refusal to issue a concealed pistol license and is entitled to costs and reasonable attorneys' fees if successful. Also, a person whose application to purchase a pistol is denied may appeal to a local legislative authority for a review of the denial. The person is entitled to judicial review if the legislative authority does not permit the pistol sale.

Restricted Firearms. Although the possession of short-barreled rifles and short-barreled shotguns is regulated under federal law, possessing such firearms does not violate state law.

Currently, firearms manufacturers in Washington State may produce machine guns for sale to the United States armed forces. Members of the armed forces may possess machine guns, even when not engaged in official duties. Manufacturers are not expressly authorized to repair such firearms or to sell them to domestic law enforcement agencies, although law enforcement officers engaged in official duties are allowed to possess machine guns. Neither are manufacturers authorized by state law to sell machine guns to foreign countries, even if the manufacturer complies with all federal requirements.

Employees of such manufacturers are not required to undergo fingerprinting or background checks.

Firearm Range Training and Practice Facilities. Many law enforcement personnel and members of the general public use firearm range training and practice facilities as places to shoot their firearms. Entities receiving matching funds or grants from the firearms range account are required to keep facilities open on a regular basis and available for use by law enforcement personnel or members of the general public with concealed pistol licenses or Washington hunting licenses.

Conflicts Between Firearms Laws and Other Criminal Statutes. Some provisions of current firearm laws potentially conflict with other laws in the criminal code. For example, firearm laws concerning spring guns potentially conflict with the assault and homicide statutes.

A statute creating a presumption that a person armed with an unlicensed pistol intended to commit a crime of violence has been declared unconstitutional by the Washington Supreme Court.

Surrender of Weapons When a Protection Order Is Entered. "Protection" orders restrain a person from contacting or harming another person. Protection orders may be granted in criminal or divorce cases, or in other civil actions upon petition by the person who feels threatened. Some, but not all, of the statutes which authorize issuance of protection orders also grant courts authority to require parties to surrender firearms or other deadly weapons under certain circumstances.

PART V. PUBLIC SAFETY

A. CRIMES.

A person commits the crime of theft in the second degree if the person steals a firearm having a value less than $1,500. If the firearm's value is $1,500 or more, the crime is theft in the first degree. A person commits the crime of possession of stolen property in the second degree if the person possesses a stolen firearm, regardless of the firearm's value.

A person commits the crime of reckless endangerment in the first degree if the person discharges a firearm from a vehicle in a reckless manner and creates a substantial risk of injury or death to another person.

B. PROVISIONS AFFECTING ADULT OFFENDERS.

(1) Adult Criminal Penalties.

a. Theft in the First and Second Degree. Theft in the second degree and possession of stolen property in the second degree are class C felonies ranked at seriousness level I on the sentencing grid. A first time adult offender's standard range is 0 to 60 days in jail. Theft in the first degree is a class B felony and is ranked at seriousness level II. A first time offender's standard range is 0 to 90 days in jail.

b. Reckless Endangerment in the First Degree. Reckless endangerment in the first degree is a class C felony and is ranked at seriousness level II.

c. Deadly Weapon Enhancements. If an adult offender commits one of certain specified crimes while armed with a deadly weapon, an additional term of confinement must be imposed. Not all violent offenses are included in the list of offenses which may trigger application of the deadly weapon enhancement.

d. Earned Early Release Credits. Offenders committed to the Department of Corrections (DOC) may earn "early release" credits for good behavior and good performance. DOC establishes rules for what constitutes good behavior and good performance.

(2) Correctional Industries. DOC, Division of Correctional Industries, operates five classes of work programs that provide jobs, training, and work experience for inmates. Each correctional industries worker is estimated to work an average of 1,400 hours annually. The inmates receive wages for their work ranging from $30 per month for class IV work programs to the prevailing wage for offenders employed in class I jobs.

Under current law, DOC is responsible for establishing deductions to be made from the inmate's wages to contribute to the cost of incarceration and the development of the Correctional Industries Program. In 1993, the provisions on deductions from inmates' wages were amended, effective June 30, 1994. This legislation requires DOC to take deductions from the wages of inmates working in class I or class II jobs, or earning more than minimum wage. After deductions for legal financial obligations and taxes, DOC must deduct 10 percent for the crime victim compensation account; 10 percent for a personal inmate savings account, until the account has a balance of $950; and 30 percent for the cost of incarceration. A person sentenced to life imprisonment is exempt from the personal inmates savings account deduction, but is subject to a 40 percent deduction for the cost of incarceration.

Legislation passed in 1993 also mandated the expansion of inmate employment in correctional industries by 150 percent—an additional 1,500 inmate employees—by June 30, 2000.

DOC has expressed concern that the deductions required by the 1993 legislation may discourage inmates from working in correctional industries and impede DOC's achievement of the production goals established under law in 1993.

C. PROVISIONS AFFECTING JUVENILES.

(1) Curfews and runaways. Various local jurisdictions have periodically enacted curfew ordinances. The Washington State Supreme Court ruled such an ordinance unconstitutional in 1973 but suggested that curfew ordinances could be constitutional in limited circumstances.

Runaways taken into custody may be returned home, or may be taken to a crisis residential center or to the home of a responsible adult if the child is afraid to go home or the officer believes the child is abused.

A person who harbors a runaway is guilty of a misdemeanor.

(2) Prosecution of Juveniles As Adults. The Juvenile Court has jurisdiction over juvenile offenders under age 18. In limited circumstances, the court may transfer a juvenile to adult criminal court for prosecution as an adult if the court holds a hearing and determines that transferring the juvenile is in the juvenile's or community's best interests.

(3) Juvenile Court and Family Court Jurisdiction. The Juvenile Court and the Family Court are both part of the Superior Court, but an artificial barrier exists be-

tween the courts that prevents the courts from simultaneously considering a variety of issues affecting the same juvenile.

(4) Juvenile Offender Disposition Provisions. The juvenile offender disposition code is a complex code that establishes sanctions according to a formula that considers the seriousness of the crime, the juvenile's age and prior criminal history, and the recency of that history.

Some counties have expressed concern that the code does not provide them with sufficient flexibility to place detained juveniles in a variety of custodial settings.

A variety of disposition options exist; however, dispositions may not be deferred and in most cases may not be suspended. Some juveniles may be "diverted" from prosecution in the juvenile system. Critics of diversion claim that juveniles are diverted from prosecution too often, for crimes that are too serious, and that parents and local community members lack opportunities to participate in the diversion process.

A juvenile may be labeled a "minor or first offender" depending on the juvenile's age, the crime charged, and his or her criminal history. Critics of this category claim that penalties should be based on the seriousness of the crime rather than on the juvenile's age, and that juveniles are considered "minor or first" offenders even when their crimes are not minor and they have committed more than one offense.

An offender who is placed on community supervision or parole has to comply with certain requirements or face sanctions. Apparently, conditions of community supervision or parole do not always include a requirement that the juvenile refrain from committing new offenses.

Some juvenile sex offenders who could be committed to a state institution are eligible for a suspended disposition option which allows them to remain in the community under community supervision. If an offender violates the terms of community supervision, the court may impose up to 30 days in detention for a violation but currently cannot revoke the suspension and commit the juvenile to DSHS to serve the remaining disposition. Critics of this option claim that courts need authority to impose longer periods of confinement as a sanction to encourage offenders to comply with the terms of the suspended disposition.

Because illegal possession of a firearm by a juvenile is only a misdemeanor, the penalty is generally not very severe. Juveniles may be diverted from prosecution in certain cases and may not have to spend any time in detention.

Unlike the adult system, no special provision exists authorizing a prosecutor to file a special allegation if a juvenile or an accomplice commits a crime while armed with a deadly weapon or a firearm. Consequently, no mandatory penalty enhancement exists for juveniles who commit crimes while armed with a firearm.

Juveniles may be ordered to pay restitution to victims. However, because Juvenile Court jurisdiction expires when a juvenile turns age 21, the Juvenile Court lacks authority to force a juvenile to continue to pay restitution past the juvenile's 21st birthday.

Last year, the Legislature enacted a statute implementing some recommendations of a study on racial disproportionality in the juvenile justice system. Prosecutors were not expressly directed to develop prosecutorial filing standards considering the recommendations in the study.

(5) Administration.

Structuring of the Division of Juvenile Rehabilitation. The state agency responsible for confining and rehabilitating juvenile offenders is the Department of Social and Health Services. The secretary of DSHS is a cabinet-level position, and the secretary has broad authority to create administrative structures within the department, except as otherwise required by law. The secretary of DSHS appoints assistant secretaries to administer the divisions within DSHS. Currently, the assistant secretary for Children, Family and Youth Services (CFYS) has jurisdiction over juvenile rehabilitation; within CFYS, the Division of Juvenile Rehabilitation (DJR) fulfills DSHS's responsibilities for juvenile offenders.

Warrant Authority. The Fourth Amendment to the United States Constitution requires that an arrest warrant be issued by a "neutral and detached" magistrate who is capable of determining the existence of probable cause. The Fourth Amendment does not prohibit non-judges from issuing warrants, but the constitution requires severance of the warrant process from activities of law enforcement.

The secretary of the Department of Corrections has narrow warrant-issuing authority. When the secretary grants a furlough to a prisoner, and either the prisoner violates furlough terms or the secretary revokes the furlough, the secretary has the statutory authority to issue an arrest warrant for the prisoner. Similarly, community corrections officers have the authority to cause the arrest without a warrant of offenders who violate terms of their sentences.

Juvenile Offender Education. Juvenile offenders who are committed to DJR receive education provided by the school district in which the DJR facility is located. No centralized authority coordinates education for committed juvenile offenders.

Local Law and Justice Councils. By statute, every county legislative authority is required to have a local law and justice council. The council includes representatives of the county and local cities, prosecutors, courts, jails and law enforcement. The council develops a local law and justice plan for the county.

(6) Parental Assessments for Costs of Juvenile Offenders' Confinement. A statute enacted in 1993 permitted DSHS to assess parents for the cost of confining juvenile offenders. Enforcement difficulties have prevented DSHS from fully implementing the parent-pay policy.

D. MISCELLANEOUS.

(1) **Hunter Education Courses.** Juveniles may attend hunter safety and education courses. No specific provision exists concerning the civil liability an owner, operator, employee or volunteer may incur if a juvenile is injured during the course.

(2) **Personal Protection Sprays.** Certain chemical spray devices are commonly marketed and sold as self-defense devices. Although possession of these devices is not illegal under state or federal law, some local jurisdictions have banned private possession of them.

PART VI. EDUCATION

Conflict Resolution Curricula and Training. To reduce the level of youth violence, educators and researchers have recommended that schools take a more active role in teaching students how to resolve conflicts without resorting to violence. The teaching of mediation skills is one example shown to be effective. While some teachers are aware of available conflict resolution curricula, many are not. To increase awareness and promote more widespread use of conflict resolution instruction, it has been suggested that educators be provided a summary of available instructional material, and also be provided training in violence prevention strategies.

School Security. The 1989 Legislature passed the Omnibus Alcohol and Controlled Substances Act, which modified criminal penalties for drug offenses, amended statutes related to drug investigations, and created several education and treatment programs. The bill also created the Drug Enforcement and Treatment Account and began funding school security monitors from this fund. Existing budgetary provisions do not allow the school security funds to be used for anything other than the hiring of school monitors. It has been recommended that the use of the funds be expanded to include the purchase of metal detectors and other security purposes.

Student Records. Current law restricts school personnel from obtaining information in juvenile court records. In addition, juvenile court officials are restricted in accessing school records. School and court officials have argued that having better access to each other's information would allow them to better serve court-involved students.

School Discipline and Conduct. Educators and parents have expressed concern that legal and other barriers make it difficult to manage the growing number of disruptive students in public school classrooms. These students often require extra attention and energy, which means that nondisruptive students often receive less attention and assistance.

It has also been suggested that schools be given clear authority to establish programs and schools in which strict discipline and dress codes are required, including the wearing of uniforms. Such programs, it is argued, would improve the school's educational climate and thereby increase student achievement.

PART VII. EMPLOYMENT

The Department of Labor and Industries (L&I) is responsible for the adoption and enforcement of work rules that apply to minors under 18 years of age. L&I adopted new minor work rules in July 1993. At that time, L&I agreed to conduct an evaluation of the impact of the adopted work rules on youth employment and school-to-work transition options designed to achieve job readiness. L&I evaluation is scheduled to be completed within 18 months of adoption of the new minor work rules.

The Neighborhood Reinvestment Area Program was created in 1993 to coordinate the efforts and resources of government, business and the community to create an environment in which reinvestment could occur. The Department of Community Development was authorized to designate up to six areas for participation in the program by March 1, 1994.

PART VIII. MEDIA

Media, Minors, and Violence. Many people believe that violence in the media leads to increased violence. Some scientists have concluded that observing violence on television causes violent behavior and that children may be particularly susceptible to violence-related media influences. Many parents and educators believe that children should be protected from media violence.

PART IX. MISCELLANEOUS

In 1989, the Legislature passed the Omnibus Alcohol and Controlled Substances Act. That act imposed taxes on sales of wine, beer, spirits, cigarettes, and carbonated beverages and syrup. Retailers who sell pop may notify the public that part of the cost of the pop is attributable to the tax. Those taxes are due to sunset July 1, 1995. Revenues collected from those taxes are deposited in the Drug Enforcement and Education Account and may only be used to fund services and programs implemented in the 1989 act. If the Legislature wants to continue those taxes, the Legislature must comply with the provisions of recently enacted Initiative 601. The validity of that initiative is currently being challenged in the Washington State Supreme Court. If the court upholds the validity of Initiative 601, any extension of the taxes must be submitted to the voters for their approval.

Summary:

PART I. INTENT

The Legislature finds that the increasing violence in our society is cause for great concern about the immediate health and safety of our citizens and social institutions. Youth violence is increasing at an alarming rate, and young people between the ages of 15 and 24 are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The Legislature finds that violence is abhorrent to the aims of a free society and cannot be tolerated. State efforts at reducing violence must include changing criminal pen-

alties, reducing the unlawful use and access of firearms, increasing educational efforts to encourage non-violent means for resolving conflicts, and allowing communities to design their prevention efforts.

The Legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of this legislation to:

(1) Prevent acts of violence by encouraging changes in social norms and individual behaviors—such changes have been shown to decrease the risk of violence;
(2) Increase the severity and certainty of punishment for juveniles and adults who commit violent acts;
(3) Reduce the severity of harm to individuals when violence occurs;
(4) Empower communities to focus their concerns and allow them to control the funds dedicated to empirically-supported violence prevention efforts in their region; and
(5) Reduce the fiscal and social impact of violence on our society.

PART II. PUBLIC HEALTH

Data Collection. The Department of Health (DOH) is designated as the agency for the coordination of all information relating to violence and other intentional injuries. DOH is directed to develop comprehensive rules for the collection and reporting of data relating to incidents of violence and associated risk factors. The data collection and reporting rules shall be used by any entity required to report such data.

DOH will provide any necessary data to the local health departments for use in the planning or evaluation of community networks. DOH shall publish periodic reports on intentional injuries and their associated risk and protective factors.

Program Standards and Outcome Measures. The public health improvement plan created by the Health Services Act of 1993 shall include:

(1) Minimum standards for state and local public health assessment, policy development, and assurance regarding social development to prevent violence and other public health threats;
(2) Measurable risk factors that may lead to violence, teen pregnancy and parentage, dropping out of school, drug abuse, suicide, and other health problems;
(3) Data collection and analysis standards for use by the local public health departments, the state council, and the local community networks (the standards shall ensure consistent and interchangeable data) ; and
(4) Recommendations to reduce statutory barriers affecting data collection or reporting.

Rules Established. DOH shall establish, by rule, standards for local health departments to use in assessment, policy development and assurance regarding social development to prevent health problems caused by social, educational or behavioral factors, such as: violence and delinquency; substance abuse; teen pregnancy and parentage; suicide attempts; dropping out of school; and child abuse and neglect. The standards shall be based on the standards in the public health improvement plan.

Voluntary Violence Screening. DOH shall develop a suggested reporting format for use by the print, television and radio media in reporting their voluntary violence reduction efforts. The Legislature encourages the use of a statewide voluntary, socially-responsible policy to reduce the emphasis, amount and type of violence in all public media. Each area of the public media may carry out the policy in whatever manner it deems appropriate.

Evaluation. The standards shall be used by the Legislative Budget Committee for evaluating the outcome of the community networks' plans and efforts.

PART III. COMMUNITY NETWORKS

Definitions. "At-risk" children and youth are those who risk significant loss of social, educational, or economic opportunities. At-risk behaviors include violence and delinquency, substance abuse, teen pregnancy and male parentage, suicide attempts, and dropping out of school. Children and youth at-risk include those who are victims of violence, abuse, neglect and those who have been removed from the custody of their parents.

Family Policy Council. The Family Policy Council is expanded to include a representative of a county, city, town, Indian tribe, school district, children's commission, law enforcement agency, Superior Court, private agency service provider, parks and recreation program, representatives of community organizations not associated with the delivery of services, and a chief executive officer from two major Washington corporations.

Community Public Health and Safety Networks. Community public health and safety networks are created to reduce the number of children and youth who are at risk.

The community network membership is composed of 23 people. Thirteen of the members shall be citizens with no direct fiduciary interest in health, education, social service or criminal justice organizations. Citizen members of existing commissions, boards, and organizations within the network shall be considered for membership in the community network. The remaining members shall represent local govemment, tribes, law enforcement, courts, recreation, social service, education, health, employment and nonsecular organizations.

The networks shall:

(1) Review local public health data relating to at-risk children and youth;
(2) Prioritize the risk factors and protective factors to reduce the likelihood of their children and youth being at risk (the priorities shall be based upon the local public

health data and shall utilize the data standards established by DOH);

(3) Develop long-term community plans to reduce the number of at-risk children and youth; set definitive, measurable goals, based upon DOH standards; and project desired outcomes;

(4) Distribute to local programs funds that reflect the locally established priorities;

(5) Meet outcome-based standards for determining success; and

(6) Cooperate with DOH and local boards of health to provide data and determine outcomes.

Each community network shall select a public entity as the lead administrative and fiscal agency. The public entity may subcontract some functions to another public or nonprofit organization.

Community Network Planning Options. The plans may include funding of community-based home visitor programs, at-risk youth job placement and training programs, employment assistance, education assistance, counselling and crisis intervention, youth leadership development and technical assistance to grant applicants.

Planning Grants and Assistance. All networks are eligible to receive planning grants and technical assistance on January 1, 1995. After receiving the planning grant, a region will be given one year to submit its plan. Beginning July 1, 1995, up to one-half of the networks will be eligible to receive funds for prevention and early intervention programs. The networks that did not receive the initial grants are eligible, upon approval of their plans, to receive such funds on January 1, 1997.

Council's Duties. The council's duties include:

(1) Determining the boundaries for the networks by July 1, 1994 (there is a presumption that the network boundaries should not divide a county, or encompass an area with a population of less than 40,000 people);

(2) Developing a training program to assist communities in creating community networks;

(3) Approving the structure, purpose, goals and plans of each community network;

(4) Identifying prevention and early intervention programs and funds, in addition to those set forth in the bill, that could be transferred to the community networks;

(5) Rewarding networks that reduce state-funded out-of-home placements;

(6) Reviewing the implementation of this act and making recommendations to the Legislature; and

(7) Assisting the Governor in requesting any necessary federal waivers and coordinating any necessary efforts to make changes in federal law.

Treatment Programs. The council may, by a simple majority, remove from the grants any funds used for treatment programs.

Community Plan Approval Process. The council shall disburse funds to a community network only after a comprehensive community plan has been prepared and approved by the council. In approving the plan, the council shall consider whether the network:

(1) Promoted input from the widest practical range of agencies and affected parties;

(2) Reviewed the indicators of violence data compiled by the local public health departments and incorporated a response to those indicators in the plan;

(3) Obtained certification of its plan by the largest health department in the region, ensuring that the plan met DOH minimum standards for assessment and policy development relating to violence prevention;

(4) Included a specific mechanism of data collection and transmission based on the rules established by DOH;

(5) Isolated only one or a few of the elements of the cause and cure of violence in the plan to the exclusion of others;

(6) Committed to make measurable reductions in the number of out-of-home placements, at-risk children and youth, and reductions in at least three of the following areas: violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts or the school drop-out rate.

The community network may demonstrate that a specific program, or a part of a program, should not have its funding decategorized and block granted to the network.

Restricted Funds. All funds transferred to the community networks from the community mobilization and drug/alcohol programs shall be used only for those purposes until July 1, 1997.

Federal Waivers. The council shall assist the Governor in requesting any necessary federal waivers or changes in federal law.

Regulation of Programs. No state agency may require any program requirements for the granted funds, except as necessary to meet federal funding standards. None of the funds which are granted to the community networks shall be considered new entitlements.

Office of Financial Management. The Office of Financial Management (OFM) shall develop the fund distribution formula for determining allocations to the community public health and safety networks by December 20, 1994. OFM shall reserve 5 percent of the funds for the purpose of rewarding community networks that show exceptional reductions in the number of youth placements in state-funded out-of-home settings.

Group Homes. The Secretary of DSHS and the Insurance Commissioner shall conduct a study regarding liability issues and insurance rates for private nonprofit group homes.

DSHS will make its nonconfidential evaluation and research materials on group homes available to group home contractors.

PART IV. FIREARMS AND OTHER WEAPONS

Persons prohibited from possessing pistols may not possess any type of firearm. It is a class C felony for any person prohibited from possessing a firearm to do so, and

it is a class C felony to deliver a firearm to someone prohibited from possessing one.

FIREARMS AND JUVENILES.

It is a class C felony for juveniles under the age of 18 to possess firearms unless an enumerated exception applies. The exceptions include: safety training, target shooting or practice at an established range; engaging in an organized competition; hunting with a valid license; traveling to and from such activities with an unloaded firearm; being on family property with parental permission; military service; and some situations of lawful use of deadly force. Also, there is an exception for juveniles at least 14 years old with hunter education certificates, who may lawfully possess firearms in an area where it is legal to discharge firearms. Any juvenile over the age of 14 without a hunter education certificate, any juvenile under the age of 14, and any juvenile using a pistol must have parental supervision for the exception to apply.

There is no exception for emancipated minors.

FIREARMS AND OTHER PERSONS.

Persons Disqualified from Possessing Firearms. Persons convicted of a "serious offense" (defined to include a crime of violence and several additional offenses), a domestic violence or harassment offense, or a felony in which a firearm is used or displayed, are prohibited from possessing firearms. In addition, persons who have been voluntarily committed for mental health treatment in excess of 14 continuous days, or who have been convicted on three occasions within five years of operating a motor vehicle or vessel while under the influence of alcohol or drugs, may not possess a firearm until their right to do so has been restored.

Restoration of Rights. A person who is prohibited from possessing a firearm because of committment for mental health treatment, either voluntarily or involuntarily, may petition a court to have his or her right to possess a firearm restored. The petition must include information specified in the act, and the petitioner bears the burden of proving the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur. The requirement that DSHS develop rules for an approval process is removed.

A person prohibited from possessing a firearm because of three convictions of driving a motor vehicle or operating a vessel while under the influence of alcohol or drugs may, after five continuous years without further convictions for any alcohol-related offense, petition a court of record to have the right to possess a firearm restored.

Delivery of Firearms. The delivery statute is amended to remove undefined terms and to make it a class C felony to deliver a firearm to anyone for whom it is a class C felony to possess a firearm.

Carrying Firearms. No one may carry a firearm unless the firearm is unloaded and enclosed in an opaque case or secure wrapper, or an exception applies. The exceptions are similar to the circumstances in which a person under 18 years of age may possess a firearm. In addition, there are exceptions for persons who are licensed to carry concealed pistols, persons with unloaded firearms secured in place in a vehicle, persons carrying firearms to and from vehicles for the purpose of repair, and law enforcement officers. A city, town or county may enact an ordinance exempting itself from this "case and carry" rule.

CONCEALED PISTOL LICENSES.

Because a person must be 21 years of age to qualify for a concealed pistol license, a person at least 18 years of age, but under the age of 21, may possess a pistol only at work, at home, on property he or she owns, or under other circumstances in which one of the exceptions for juveniles applies.

Applications. The current list of crimes for which a conviction will disqualify a person for a concealed pistol license, unless his or her rights are restored, is replaced by a reference to a list of crimes against a child or other person.

The list of statutes providing for court orders or injunctions that will make persons subject to such orders or injunctions ineligible for a concealed pistol license is expanded.

An applicant for a concealed pistol license must apply: (1) to the municipality or county in which the applicant resides, if the applicant resides in a municipality; (2) to the county in which the applicant resides, if the applicant resides in an unincorporated area; or (3) anywhere in the state if the applicant is a nonresident.

An issuing authority cannot refuse to accept completed applications for concealed pistol licenses during normal business hours.

The issuing authority must check the national crime information center, Washington State Patrol and DSHS electronic data bases, and other resources as appropriate, to determine whether an applicant is eligible for a concealed pistol license.

If an issuing authority discovers a license was issued in error, the authority must revoke the license and require the applicant to transfer lawfully, within 14 days of revocation, any pistol acquired while the applicant was in possession of the license.

A person who knowingly makes a false statement concerning citizenship or identity on a concealed pistol license application is guilty of a gross misdemeanor under the false swearing statute. In addition, the person is permanently ineligible for a concealed pistol license.

DOL must make information regarding issued concealed pistol licenses available to law enforcement and corrections agencies in an on-line format.

License Revocation. A license-issuing authority is to revoke the license of a person who was: (1) ineligible for the license at the time of application; (2) convicted of an offense making the person ineligible to possess a firearm; (3) committed for mental health treatment so that the person is prohibited from possessing firearms; (4) convicted

of a third violation of the firearms and dangerous weapons statutes within five years; (5) ordered to forfeit a firearm; (6) convicted of illegally possessing a firearm on school grounds; or (7) convicted of carrying or displaying a firearm or other dangerous weapon in a manner intentionally intimidating or warranting alarm. A person who purchases a pistol while in possession of a mistakenly issued license, and who is ineligible to possess a pistol, must transfer ownership of the pistol within 14 days of license revocation.

Licensing Fees. All of the licensing fees are increased. An original license fee is increased from $23 to $50, to be distributed as follows: $15 to the state general fund, $10 to the agency taking the fingerprints, $15 to the issuing authority and $10 to the firearms range account. A renewal license fee is increased from $15 to $50, with $20 to the state general fund, $20 to the issuing authority and $10 to the firearms range account. The late penalty is increased to $20, with $10 to the state wildlife fund and $10 to the issuing authority.

FIREARMS DEALERS.

A dealer is defined as a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license. Collectors making occasional sales are excluded.

Deliveries to Purchasers. The waiting period before a dealer can deliver a pistol when the purchaser does not have a valid concealed pistol license is changed from five consecutive days to five business days, to correspond with the federal waiting period.

The law enforcement agency of the jurisdiction in which the purchaser resides is expressly required to check the national crime information center, Washington State Patrol and DSHS electronic data bases, and other resources as appropriate, to determine whether an applicant is eligible to possess a pistol. Once the national instant criminal background check system is operable, a dealer is required to rely on it for criminal background checks, but a law enforcement agency still is required to check the DSHS data base for mental health commitments.

A dealer who sells or delivers a firearm to a person whom the dealer has reasonable cause to believe is ineligible to possess one is guilty of a class C felony and will have his or her dealer's license permanently revoked.

A person who knowingly makes a false statement concerning identity or eligibility on a purchase application is guilty of a gross misdemeanor under the false swearing statute.

Like concealed pistol applications, purchase applications, transfer records, and information obtained concerning mental health histories are exempt from public disclosure.

DOL is authorized to keep copies of concealed pistol license applications, alien firearm license applications, purchase applications, and records of pistol transfers.

Licensing. A person engaged in selling firearms or ammunition, who holds or is required to hold a federal license, must obtain a dealer's license and register with the Department of Revenue. The person must specifically be licensed to sell pistols, other types of firearms, or ammunition, and may be licensed to sell all three. DOL is to provide a single application for all types of dealer's licenses, and a single license form which is to indicate the type or types of licenses granted. The total annual license fee is $125, regardless of how many types of dealer's licenses are granted to the applicant. DOL is required to report to ATF dealers who do not comply with these requirements and whose gross proceeds from sales fall below a specified level. However, in reporting to ATF, DOL is not to specify whether a particular dealer has failed to comply with licensing requirements, registration requirements or has low gross sales proceeds.

To apply for a dealer's license, an applicant must have a federal license and must undergo fingerprinting and a background check. A dealer must be eligible for a concealed pistol license, even if he or she does not have one. A dealer also must require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. Before being permitted to sell a firearm, an employee must be eligible to possess a firearm and must not have been convicted of a crime that would disqualify the employee for a concealed pistol license. In addition, every employee selling firearms must comply with the requirements concerning purchase applications and restrictions on delivery of pistols that are applicable to dealers.

The dealer must post his or her license in the area of the store where firearms are sold. A dealer may conduct business from a temporary location for a gun show and must post his or her license at that temporary location.

CONFIDENTIALITY.

A signed application to purchase a pistol or for a concealed pistol license constitutes an authorization to DSHS, mental health institutions, and other health care facilities to release to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to possess a pistol or for a concealed pistol license.

Information received by DOL, a license-issuing authority, a law enforcement agency or a court, concerning a person's mental health history may only be disclosed in compliance with the Public Disclosure Act.

The Public Disclosure Act is amended to make exempt from public disclosure, with some exceptions: applications for concealed pistol licenses, alien firearm licenses, or to purchase a pistol; records of pistol sales; and mental health information. Law enforcement and corrections agencies may see or receive copies of the information. A person who is the subject of mental health information and who wishes to see the information must seek its disclosure directly from the health care provider. However, a person is entitled to see or receive copies of his or her own applica-

tions for a concealed pistol license, for an alien firearm license, or to purchase a pistol, and records of his or her pistol purchases. The general public may receive information, such as for research or statistical purposes, that does not identity the name, address or Social Security number of any person who is the subject of the information.

PREEMPTION.

Local governments may designate, through zoning, where firearms may be sold but, with one exception, may not treat a business selling firearms more restrictively than other businesses within the same zone. Local governments may require the location of storefront businesses advertising firearms for sale to be at least 500 feet from schools.

SCHOOL GROUNDS.

It is illegal to possess firearms or other dangerous weapons on school premises, school-provided transportation or areas of facilities while being used exclusively by public or private schools.

The exceptions for weapons in vehicles apply only to non-students at least 18 years of age.

Any student who violates the prohibition against firearms on school grounds shall be expelled for an indefinite period of time.

JUVENILE DRIVING PRIVILEGES.

The driving privilege of a juvenile who illegally possesses a firearm in a vehicle, or who commits an offense while armed with a firearm, if that offense involves the use of a vehicle, are to be revoked for one year for a first offense. Driving privileges are to be revoked for two years for second or subsequent offenses. If a juvenile also commits other offenses for which driving privileges are revoked, revocation periods are to run consecutively.

MISCELLANEOUS PROVISIONS.

Immunity. Governmental and private entities and their employees, acting in good faith, are immune from liability for: (1) preventing or failing to prevent pistol sales; (2) issuing or failing to issue concealed pistol license; (3) revoking or failing to revoke concealed pistol licenses; and (4) for errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license.

A person may apply to a court for a writ of mandamus directing an issuing authority to issue a concealed pistol license wrongfully refused, directing a law enforcement agency to permit a pistol purchase wrongfully denied, or directing erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or in the wrongful denial of a purchase application be corrected. The court is to provide an expedited hearing on the suit. A person who prevails against a public agency in such a suit is entitled to reasonable attorney fees and costs.

Restricted Firearms. A person, other than a law enforcement officer or member of the military, may possess machine guns, short-barreled shotguns, or short-barreled rifles only if in compliance with federal law. Both law enforcement officers and members of the military must be engaged in official duties to possess lawfully such firearms. A grandfather provision is included for law enforcement officers and members of the armed forces who acquired such firearms prior to the effective date of this restriction.

Washington firearm manufacturers may produce and repair machine guns, short-barreled shotguns and short-barreled rifles. Manufacturers also may sell such firearms to domestic governmental law enforcement agencies and, if in compliance with federal law, to foreign countries. Employees of the manufacturers must undergo fingerprinting and background checks.

Firearm Range Training and Practice Facilities. A local government may close a firearm range training and practice facility only if the facility is replaced with another facility of at least equal capacity. More than one closed facility may be replaced with a single facility, if the capacity of the replacement facility is at least as large as the combined capacities of the closed facilities.

The replacement facility must be open for use within 30 days of the closure of the replaced facility or facilities and must be available for use by law enforcement personnel and the general public to the same extent as the closed facility or facilities.

In addition to persons with concealed pistol licenses and Washington hunting licenses, entities receiving matching funds or grants from the firearms range account are required to allow members of the general public who are enrolled in a firearm safety class to use the facilities.

Other Provisions. Conflicting statutes are amended or repealed, the statute held unconstitutional by the Washington State Supreme Court is repealed, and numerous additional changes are made.

Surrender of Weapons When a Protection Order Is Entered. When a court issues a protection order restraining a person from contacting or harming another person, the court is expressly authorized to require a party to surrender a firearm, other dangerous weapon, and a concealed pistol license, and may prohibit a party from obtaining or possessing a firearm or a concealed pistol license. The new provision applies to a variety of statutes which authorize courts to issue protection orders.

PART V. PUBLIC SAFETY

A. CRIMES.

A new crime of theft of a firearm is created. A person is guilty of theft of a firearm if the person steals a firearm or possesses, delivers or sells a stolen firearm. Theft of a firearm is a class C felony. The crimes of theft and possession of stolen property are amended to delete reference to firearms. See Part IV of the act.

B. PROVISIONS AFFECTING ADULT OFFENDERS.

(1) Adult Criminal Penalties.

a. Theft of a Firearm. The new crime of theft of a firearm is ranked at seriousness level V. A first-time offender convicted of a crime at seriousness level V has

a standard range of 6 to 12 months in jail. If certain taxes are referred to the voters in November under Initiative 601 and if the voters do not vote for those taxes, then this provision will expire on July 1, 1995. (See Part IX for a description of the taxes.) If this section expires, the new crime of theft of a firearm will be an "unranked" felony, which means that the standard range for the offense is 0 to 12 months in jail.

b. Reckless Endangerment in the First Degree. Reckless endangerment in the first degree is raised to a class B felony and to seriousness level V. These new provisions expire July 1, 1995 and current law will be restored if the voters do not approve the taxes.

c. Deadly Weapon Enhancements. If an adult offender commits any violent crime while armed with a deadly weapon, the offender must serve an additional 12 months in confinement. This new provision does not change the additional time imposed under current law for specified violent offenses. This provision also expires if the voters do not approve the taxes, and current law will be restored.

d. Earned Early Release Credits. DOC may condition earned early release credits on an inmate's participation in literacy training, employment skills training, or anger management courses.

(2) **Correctional Industries.** DOC is required to redevelop the formula for deductions from offender wages. For inmates working in class I work programs and inmates earning at least minimum wage, the formula must include minimum deductions of 5 percent for the crime victims compensation account, 10 percent to a DOC personal inmate savings account, and 20 percent for the cost of incarceration. For inmates working in class II work programs, the deductions are the same except that the minimum deduction for the cost of incarceration is 15 percent. Five percent must be deducted from the wages of inmates working in class III correctional industries for the crime victims compensation fund. For class IV work programs, the formula must include a 5 percent deduction for the cost of incarceration. Lifetime offenders are also required to have their wages deducted according to the new deduction formula.

Funds in DOC's personal inmate savings account may be made available to the inmate prior to release only if the secretary determines that an emergency exists for the inmate.

The management of class I, class II, and class IV industries may establish an incentive payment for offender workers based on productivity. The incentive is to be paid separately from wages or gratuities, and is not subject to the deduction for cost of incarceration.

If the offender's earnings are subject to garnishment for support enforcement, the deductions for crime victims' compensation, savings, and the cost of incarceration are calculated on the net wages after taxes, legal financial obligations, and the amount subject to garnishment are taken out.

The Correctional Industries Board of Directors is required to develop a strategic yearly marketing plan that is consistent with and works toward the goals established in the six-year phased expansion of class I and class II industries established by statute. The plan must be presented to the appropriate legislative committees by January 17 of each year until the correctional industries expansion goals have been achieved.

C. PROVISIONS AFFECTING JUVENILES.

(1) **Curfews and Runaways.** The Legislature grants express authority to cities and towns to enact curfews. Adopted ordinances must not contain any criminal penalties. A law enforcement officer may take a child into custody if the child is violating the curfew. If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored, the officer must take the child into custody. The crime of harboring a minor is raised to a gross misdemeanor. Under certain circumstances, the officer may take a child who is in custody to the home of an adult extended family member. "Extended family members" are defined. DSHS must maintain a toll free hotline to assist parents of runaway children. The Criminal Justice Training Commission must ensure that law enforcement agencies have manuals describing statutes relating to runaways.

(2) **Prosecution of Juvenile Offenders As Adults.** A juvenile offender will be prosecuted as an adult if the juvenile is 16 or 17 years old and the alleged offense is: (a) a serious violent offense, or (b) a violent offense and the juvenile has a certain criminal history. A hearing will not be held. A juvenile subject to adult court jurisdiction may be detained in a county juvenile detention facility pending resolution of the case. These new provisions will expire if the voters do not approve the taxes.

(3) **Juvenile Court and Family Court Jurisdiction.** The Family Court will have concurrent original jurisdiction with the Juvenile Court over cases involving juveniles if the Superior Court judges of a county authorize concurrent jurisdiction.

(4) **Juvenile Offender Disposition Provisions.** A number of changes are made to disposition standards for juvenile offenders.

New disposition options are created: A juvenile offender basic training camp is created as a placement and disposition option for certain juvenile offenders committed to DSHS. Some juveniles may be eligible for deferred adjudication depending on the juvenile's crime and prior criminal history. The dispositions for middle offenders may be suspended and, if the suspension is revoked, the court may order execution of the entire remaining disposition. The definition of "detention facility" is expanded to provide the counties with greater flexibility in placing detained juveniles. A clarification is added that judges may not directly

place juveniles in any particular facility; rather, the judge will commit juveniles to the county or the state, and the administrators of the juvenile offender programs will determine the appropriate placements for the juveniles. A technical correction is made deleting reference to "detention group homes" and "detention foster homes" which refer to terms that were initially defined in a 1992 act but which were ultimately deleted in that act.

Eligibility for diversion is restricted, and new requirements may be placed on juveniles who are diverted. Diversion units must consult with the offenders' parents when entering into the diversion contract. Community accountability boards may act as diversion units.

A juvenile may be a minor or first offender regardless of the juvenile's age. However, juveniles who commit felonies may no longer be considered minor or first offenders.

New mandatory conditions of community supervision (probation) must be imposed, including conditions that the juvenile attend school and refrain from committing new offenses. Conditions of parole must also require juveniles to refrain from committing new offenses and to refrain from possessing firearms or using deadly weapons. If a juvenile violates parole by possessing a firearm or by using a deadly weapon, DSHS must modify parole and confine the juvenile for at least 30 days. This provision regarding parole violators will expire July 1, 1995, if the voters do not approve the taxes referred to them for approval. If the juvenile commits a new offense while on parole, the current offense points for the juvenile's offense must be increased by a factor of 5 percent. This provision will also expire if the taxes are not approved by the voters.

If a juvenile sex offender who receives a suspended disposition violates conditions of the suspended disposition, the court may impose a penalty of up to 30 days' confinement for violating the disposition, and the court may also order execution of the remaining portion of the disposition.

New penalties are established for some firearm offenses. If a juvenile is adjudicated of the crime of possessing a firearm, the juvenile must serve a minimum of 10 days in confinement. The prosecutor may file a special allegation alleging that the juvenile or an accomplice committed a violent offense and certain non-violent offenses while armed with a firearm. If the juvenile is found to have committed one of the designated crimes while armed with a firearm, the court must impose 90 days in confinement in addition to the penalty imposed for the underlying offense. The penalty provisions for possession of a firearm and committing a crime while armed with a firearm will expire July 1, 1995, if not approved by the voters.

Juvenile Court jurisdiction may be extended until the respondent is 28 years old for purposes of collecting restitution ordered in a disposition for a juvenile offense.

Prosecutors must develop prosecutorial filing standards considering the recommendations of the racial disproportionality study conducted in 1992.

(5) Administration of Juvenile Justice.

Assistant Secretary Position for DJR. The bill requires the secretary of DSHS to appoint an assistant secretary to administer the department's juvenile rehabilitative responsibilities. The bill imposes specific statutory responsibilities on the assistant secretary, including:

- preparing a budget request sufficient to meet DJR's forecast needs;
- creating, by rule, a formal inmate classification system;
- developing substance abuse treatment programs;
- developing vocational education programs;
- developing regional facilities in cooperation with local authorities;
- developing disciplinary policies;
- developing procedures to evaluate residents for learning disabilities, attention deficit disorder, fetal alcohol syndrome, etc;
- studying vocational education needs among residents and reporting to the Legislature;
- establishing a program to develop self-worth and respect for self and others in juvenile offenders; and
- studying the feasibility of consolidating within a single entity the responsibility for juvenile offender education.

Warrant Authority. The bill gives the assistant secretary the authority to issue arrest warrants for juveniles who escape from DJR's residential custody.

Local Law and Justice Council Juvenile Justice Advisory Committees. Local law and justice councils shall establish juvenile justice advisory committees, which shall include Juvenile Court administrators and citizens. The advisory committees shall monitor juvenile dispositions, rehabilitation and proportionality. The committees shall report to the Juvenile Disposition Standards Commission. The advisory committees have a duty to protect the confidentiality of juvenile justice information.

(6) Parental Assessments for Costs of Juvenile Offenders' Confinement. When a juvenile offender is committed to DSHS, his or her parent is liable for the cost of the juvenile's confinement and treatment. To determine the amount owing, DSHS will establish a cost schedule based on confinement costs and the parents' ability to pay. DSHS will enforce the assessment in an adjudicative proceeding held in accordance with the Administrative Procedure Act. DSHS has the authority to collect the debt.

When a juvenile offender is confined by a county, the court can order the juvenile's parents to pay the county for the cost of the juvenile's confinement and treatment.

D. MISCELLANEOUS.

(1) Hunter Education Course Immunity. No person who operates a hunter training and certification course for juveniles will be liable for any injury to a juvenile who

participates in the course, unless the injury is a result of gross negligence. The immunity also applies to employees and volunteers.

(2) **Personal Protection Sprays.** No local governmental entity may prohibit a person 18 years of age or older from possessing a personal protection spray device. Juveniles between the ages of 14 and 17 may also possess the devices with parental permission. A juvenile who possesses the device without parental permission commits a misdemeanor. Protection sprays may also be used in a manner consistent with the authorized use of force.

PART VI. EDUCATION

Curricular Guide. The Superintendent of Public Instruction (SPI) is to prepare, subject to funding, a guide of available programs and strategies pertaining to conflict resolution and other violence prevention topics.

In-service Training. SPI is to contract with, subject to funding, school districts, educational service districts, and approved in-service providers to conduct training sessions for school certificated and classified employees in conflict resolution and other violence prevention topics.

Community Education/After-hours Programs. School districts are encouraged to provide community education programs, including programs in violence prevention.

The Washington State School Directors' Association is to conduct a study to identify possible incentives to encourage schools to increase the space available for after-hours community use. Recommendations to the Legislature are to be reported by November 15, 1994.

Community public health and safety networks are allowed to include in their comprehensive community plans procedures for providing matching grants to school districts to support the expanded use of school facilities for after-hours recreational opportunities and day care.

School Security Grants. The allowable uses for school security grants are expanded from funding only the costs of employing or contracting for building security monitors to also include metal detectors and other security measures.

Access to Records of Students. The social file, diversion record, police contact record, and arrest record of a student may be made available to a school district if the records are requested by the principal or school counselor. Use of the records is restricted. The student's records shall be made available only after providing the student's parent or guardian 72 hours' written notice.

DSHS and SPI are to review statutes and rules regarding the sharing of information about children who are the subject of reports of abuse and neglect or who are charged with criminal behavior.

The departments are to revise or adopt rules, consistent with federal guidelines, that allow school professionals access to DSHS information, and DSHS personnel access to school information.

DSHS and SPI are to report their findings and actions, including the need for statutory changes, to the Legislature by December 31, 1994.

Task Force on Student Conduct. A Task Force on Student Conduct is created. The task force is to identify laws, rules and practices that make it difficult for educators to manage their classrooms and schools effectively. Based on its findings, the task force shall recommend actions that could be taken to reduce the problems generated by disruptive students and thereby make schools more conducive to learning. The findings and recommendations of the task force shall be available by November 1, 1994.

Voluntary Mediation Program. SPI and the Attorney General, in cooperation with the Washington State Bar Association, are to develop a volunteer-based conflict resolution and mediation program.

School Discipline and Safety. School district boards of directors may establish schools and programs with stringent dress and discipline codes and parental participation standards. School boards may require students who would otherwise be suspended or expelled to attend these schools, and parents may choose to have their children attend. If students are required to wear uniforms, school districts must accommodate students so that the uniform requirement is not an unfair barrier to school participation.

PART VII. EMPLOYMENT

The Department of Labor and Industries is directed to accelerate its evaluation of the minor work rules and report to the Governor and Legislature prior to the 1995 legislative session.

The Neighborhood Reinvestment Areas Program is renamed the Community Empowerment Zone Program. References to Neighborhood Reinvestment Area are replaced with Community Empowerment Zone in the existing tax deferral and business and occupation tax credit programs.

PART VIII. MEDIA

Media, Minors, and Violence.

TV Time/Channel Lock. All televisions sold in the state must have a time/channel lock or be sold with the offer to purchase a separate time/channel lock. All cable television stations shall make a time/channel lock available to their customers, at cost.

Age-Rating of Video Games. All video games sold in this state shall clearly and prominently display a realistic age-rating for appropriateness of use. The originator shall develop the rating and may consult educators and child development experts. If the originator is a member of an industry or trade association that develops standards, the originator may adopt those standards.

Counter-Advertising Against Violence. Television, including cable television, radio, video rental companies and newspapers, may broadcast public health-based, generic anti-violence "counter-advertising" messages as a public service. The content, style and format of the messages is developed by the Community Public Health and

Safety Council. The messages may be produced with granted funds from the council or may be voluntarily produced by the media.

Libraries. Public libraries shall establish library anti-violence policies and standards on minors' access to violent videos and video games.

Prohibition of Certain Motion Pictures in Correctional Facilities. In adult correctional facilities and juvenile confinement or detention facilities, it is prohibited to show movies rated X or NC-17, or movies unrated after November of 1968, either on television or by VCR. In addition, R-rated movies are prohibited in juvenile facilities.

Study of Investment in Corporations Profiting from Violence. The State Investment Board shall study the extent to which it invests in businesses or corporations that profit from violence-related products or services. Such products and services include weapons, ammunition, and violent toys, but do not include formal educational materials or national defense products or services. The board shall report its findings to the Legislature by December 1, 1995.

State Purchasing Policy. The Department of General Administration shall refuse to purchase goods or services for the state from businesses or corporations profiting from violence-related products. Exceptions are created for formal educational materials and national defense products or services. In consultation with the Department of Health, the Department of General Administration shall develop guidelines to administer this policy.

PART IX. MISCELLANEOUS

Taxes. The sunset clauses on the taxes on wine, beer, spirits and cigarettes are removed. Carbonated beverages will no longer be taxed; however, the tax on carbonated beverage syrup will continue. Taxes are increased on cigarettes and syrup. The Drug Enforcement and Education Account is renamed the Violence Reduction and Drug Enforcement Account. Revenues from the taxes will continue to be deposited in that account; however, the expenditures from the account may fund programs under this act as well as the 1989 omnibus Alcohol and Controlled Substances Act. At least 7.5 percent of the expenditures from the account must be used for providing grants to community networks. The fund may also be used to pay for state incarceration costs.

The extension and increases of the taxes must be submitted as a single ballot measure to the voters for approval if Initiative 601 is upheld.

Juvenile Justice Act Study. On July 1, 1994, a special legislative task force is created to examine the effectiveness of the Juvenile Justice Act of 1977. The task force must make recommendations for change to the Legislature by December 15, 1994.

Votes on Final Passage:

House	78	19	
Senate	26	23	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	21	27	(Failed on final passage)
Senate	28	20	(Senate reconsidered)
First Special Session			
Conference Committee			
Senate	26	20	
House	51	43	

Effective: June 13, 1994
April 6, 1994 (Sections 201-204, 411, 412, 417 and 418)
June 30, 1994 (Section 534)
July 1, 1994 (Sections 401-410, 413-416, 419-430, 432-437, 439-460)
July 1, 1995 (Section 325)

Partial Veto Summary: The following provisions were vetoed:

(1) The expanded membership of the family policy council and the gubernatorial appointment deadline. (302 and 323). Instead the governor issued an executive order creating a family policy council advisory committee.

(2) The prohibition on state agencies to refrain from imposing program requirements on grants awarded to community networks. (313)

(3) The restriction on persons who voluntarily receive inpatient mental health treatment from possessing firearms and related provisions concerning implementing the restriction and restoring firearm rights. (402(1) (d), 420~~(6),~~ page 31, lines 11 through 26, and 404(1) (b) and (4) (a) (i))

(4) The requirement that local governments maintain firearm range training and practice facilities at their current capacity. (431)

(5) The expanded exemption from public disclosure information concerning firearm license applications and pistol purchases. (438)

(6) The expanded authority of schools to obtain confidential social and psychological information contained in a student's criminal social file and diversion and police record. (606 and 607)

(7) The requirement that all videos and video games sold or rented display an age-based rating. (804); The encouragement to the media that the media broadcast anti-violence public service messages developed by the family policy council (805); The requirement that the department of general administration refuse to purchase goods and services from businesses that profit from violence-related products or services (809); the requirement that the state investment board study the extent to which it maintains investments in businesses that profit

from violence-related products or services (810); and a related definition section. (802)

(8) A proviso in the operating budget of the department of social and health services division of children and family services which disburses the appropriation through the family policy council to community public health and safety networks. (919(8))

VETO MESSAGE ON 2SHB 2319

April 6, 1994

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 302; 313; 323; 402(1) (d); 402~~(6)~~, page 31, lines 11 through 26; 404(1) (b); 404(4) (a) (i); 431; 438; 606; 607; 802; 804; 805; 809; 810; and 919(8), Engrossed Second Substitute House Bill No. 2319 entitled:

"AN ACT Relating to violence reduction programs;"

I applaud the legislature's commitment and hard work in passing Engrossed Second Substitute House Bill No. 2319. Youth violence is a serious problem that affects the long-term economic, social, and public safety interests of our state. It is not a problem that government alone can address, nor is it a problem that a single piece of legislation can cure.

This legislation is a balanced and responsible approach to curbing youth violence in our state. It is the beginning of a long process of giving hope and opportunity to our young people, while acknowledging that solutions to youth violence require a comprehensive approach including tough sentencing, effective prevention programs, and restricted access to firearms.

Even though I have vetoed certain sections of the bill – some for technical purposes and others, such as the sections pertaining to the media, for their overly-broad implications – our mission to create a future of hope for our young people remains intact.

My reasons for vetoing these sections are as follows:

Section 302 - Definitions

Section 302 establishes definitions for, among other things, the terms "at-risk," "at-risk behaviors," "protective factors," and "risk factors," and modifies the definition of "outcome" and "matching funds." In addition, this section expands the membership of the current 10-member Family Policy Council to include an unspecified number of additional representatives, bringing the total membership to at least 23 persons.

I am vetoing section 302 because I believe that the expansion of the Family Policy Council, as set forth in this section, is unworkable. Under this section, the additional members are to represent designated entities that have, by definition, a fiduciary interest in matters the council must act upon. This is a clear conflict of interest. In addition, the council's expansion will make it exceedingly difficult for the council to manage the implementation of this legislation in an efficient and effective fashion. Finally, the additional representation is duplicative of the community networks which have been given planning and administrative duties at the local level. Vetoing this section retains the Family Policy Council in its current manageable configuration.

However, because I believe that the Family Policy Council would benefit from the expertise of those who represent the entities described in section 302, I will create by Executive Order the Family Policy Council Advisory Committee. Appointments to the advisory committee will be made before June, 1994, so the council can benefit from the committee's advice during the implementation of family services restructuring.

With respect to the other definitions in section 302, I am instructing the Family Policy Council to use those definitions in rule making and to include them in family services restructuring legislation developed for next session.

Section 313 - Federal Funding Standards

This section prohibits state agencies from placing any program requirements, except those necessary to meet federal funding standards, on grant funds awarded to community networks.

Allowing communities more flexibility in their use of funds for programs serving children and families is a significant intent of family services restructuring. However, this section goes too far by preventing the state from requiring that the use of these funds be consistent with important state interests and priorities if they differ from or exceed federal requirements. I believe that the state must not abrogate its responsibility for accountability in the expenditure of tax dollars. In addition, I am concerned that this section would limit our ability to achieve equitable distribution of funds to underserved populations. Furthermore, this language would limit the state's ability to ensure that community networks give priority to clients most likely to use state-funded entitlement programs.

Section 323 - Governor's Appointment Deadline

Section 323 specifies that the governor shall appoint the new members of the Family Policy Council by May 1, 1994. Since I have vetoed section 302, this section is not necessary.

Section 402(1) (d); section 402~~(6)~~, page 31, lines 11 through 26; section 404(1) (b); and section 404(4) (a) (i); - Involuntary Commitment

Current law makes it illegal for persons committed by court order for treatment of mental illness to possess a firearm. Section 402(1) (d); section 402~~(6)~~, page 31, lines 11–26; section 404(1) (b); and section 404(4) (a) (i), expand this law by making it illegal for persons who are "voluntarily committed" for mental health treatment for a period exceeding 14 continuous days to possess a firearm. This prohibition applies regardless of the reason a person voluntarily seeks such treatment or of the nature of his or her mental health problems. Serious questions are raised as to the range of circumstances and treatment programs which might fall under the definition of voluntary commitment. While I share the concern of the legislature that persons who present a danger to themselves, to others, or to the public should not possess firearms, the prohibition in this section is far too broad and will apply to many people who need the temporary help of mental health professionals but who do not pose a danger to society. My key concern is the chilling effect this provision would have on persons who would otherwise seek mental health treatment. I am confident that such a result was not intended by the legislature and that the extent of these criminal sanctions can be better defined and limited in future legislation. Further, the possibility of retroactive application to those who currently possess firearms or concealed pistol licenses has been raised by legal experts.

Section 431 - Firearm Range Training and Practice Facility

Section 431 requires that local governments maintain firearm range training and practice facilities at their current level by requiring that any capacity reduction must be replaced within 30 days. This mandate creates an entitlement for a select group of enthusiasts. Local jurisdictions have no more inherent responsibility to maintain public firing ranges than they do to maintain bowling alleys or pool halls. This is an inappropriate infringement on local jurisdictions.

Section 438 - Disclosure of Firearms Application Information

Section 438 exempts from public disclosure, information and records relating to firearm license applications and pistol purchases, sales, and transfers. This section represents a dramatic expansion of the current exemption for concealed pistol licenses. I believe that the proposed expansion is unwise and unwarranted. Disclosure of information relating to licenses is governed by the public records law which favors full disclosure. Section 438 would contravene this well-established policy by excluding from disclosure a broad category of information relating to the licensing of firearms. I am unaware of any evidence that would justify such an exemption.

Section 606 and section 607 - Information Released to School Officials

Section 606 allows court and law enforcement personnel to share a student's confidential police and court records with school officials. These records could include sensitive psychological and/or psychiatric information about the student and his or her family. Because this section lacks any criteria to govern school officials' requests for these sensitive records, I am concerned that their release may not be in the student's best interest.

Moreover, the amendments in these sections create a significant inconsistency in the availability of information between the criminal justice/social service system and school officials. Where criminal justice and social service officials must obtain a court order or subpoena to receive confidential student records, school officials are only required to provide 72 hours notice to the student's parents to receive his or her social file, diversion record, police contact record, or arrest record. Current law provides schools with access to a student's non confidential police and court records. With the veto of section 606, section 607 is unnecessary.

Notwithstanding these vetoes, I agree that the prudent exchange of even sensitive information among public agencies dealing with children and youth is desirable. Therefore, I am urging the Department of Social and Health Services (DSHS) and the Office of the Superintendent of Public Instruction (OSPI) to expand the scope of section 609. This section directs them to review statutes and rules relative to the sharing or exchange of information about children who are the subject of child abuse and neglect or who are charged with criminal behavior. Specifically, I am directing DSHS and OSPI to review, in conjunction with the Office of the Administrator for the Courts (OAC), the broader continuum of information exchange issues to eliminate impediments to the efficient sharing of information that is consistent with the best interests of the child. If necessary, legislation will be offered in the 1995 legislative session to improve this cooperative exchange.

Section 802 - Definitions

This section defines the terms "time/channel lock," "video," "violence," and "virtual reality," as used in sections 803, 804, 809 and 810. The definition of "time/channel lock" is unnecessarily restrictive, requiring the ability to block both selected times and channels from viewing. Moreover, this definition does not take into account new technology which will allow television owners to block selected programming. The remaining definitions are unnecessary in light of my decision to veto sections 804, 809, and 810. Accordingly, I am vetoing section 802.

Section 804 - Age-Based Rating

Section 804 requires the display of an age-based rating on all motion pictures, video cassettes, video games, virtual reality games, and television programming sold or rented in the state. The age-rating determination must include an objective evaluation and an estimate of the number of violent incidents represented in the material being rated.

Parents and others are understandably concerned over children's exposure to violence in videos, video and virtual reality games, movies, and television programming. The purpose of this section is to assist parents and other responsible adults in determining what is reasonable, age-appropriate viewing for our children and our youth. I share the concerns of parents and fully support the intent of this section. However, this section is drafted so broadly that it gives rise to serious problems which I believe justify a veto.

As written, this section would require that every title in every video store be rated or re-rated consistent with the stated criteria. This requirement, which applies to videos that are already in the marketplace, as well as to future releases, is unworkable. Many videos, including videos of movies produced before the creation of the age-rating system developed by the Motion Picture Association of America (MPAA), and videos of television movies, currently lack any age rating. Even those videos of movies that have a MPAA age rating would require a re-rating because the MPAA rating is not based exclusively upon an objective evaluation, nor does it include an estimate of the number of violent incidents represented in the material being rated as is required under this section. Therefore, this section would impose on motion picture and video suppliers the burden of rating and re-rating movies and videos solely for Washington state consumers. In addition, it would impose on video retailers an overwhelming burden of sending back thousands of titles to suppliers for ratings and re-ratings. These burdens could seriously disrupt the sale and rental of all videos and force hundreds of video retailers in our state to close. I also believe this section is unworkable as it applies to television programming, particularly news broadcasts.

Further, section 804 requires that the age-rating determination be based solely upon objective factors, such as the number of violent incidents, as opposed to more subjective factors, such as the gratuitous nature of the violence depicted. Thus, under this system, a movie about the civil war that includes battle scenes could receive the same age rating as Terminator II.

Due in large part to congressional pressure, the television, cable, video game, and motion picture industries are already working to reduce the level of gratuitous violence in their respective medium, as well as to provide more information to parents so they can make informed decisions about their children's television viewing. Parental advisories and warnings now appear before television programs containing depictions of violence that may not be suitable for children's viewing. In addition, the networks have agreed to retain an outside monitor to assess the content of their programming. Furthermore, the cable industry has pledged to develop a rating system and to use an external monitoring group to track programming and to report on violence. The video game industry is also developing an age-rating system which is scheduled to be in operation by the end of the year. The motion picture industry is continuing to discuss the treatment of violence in movies.

Notwithstanding the veto of this section, I urge the television and video game industries to follow through on their commitment to reduce levels of violent programming and to provide parents with more information about violent content. I also urge the motion picture industry to begin taking concrete steps to reduce the level of gratuitous violence in movies. Further, I encourage the media to report these and other violence reduction efforts as provided in section 205. Finally, I encourage parents to become aware of what their children are viewing and to restrict their children's viewing as appropriate. I believe that the provisions contained in section 803 will assist parents in this endeavor.

Section 805 - Anti-violence Public Service Messages

Section 805 contains a statement encouraging television and broadcast stations, including cable stations, video rental companies, and print media, to broadcast anti-violence public service messages. I fully concur with this statement as these messages are an important complement to community-based violence prevention efforts. During the past several months, I have met with numerous representatives from the media who have expressed strong interest in airing, producing, and printing anti-violence messages as a public service.

Unfortunately, however, section 805 requires that the content of all such messages be developed by the Family Policy Council. I believe this requirement is unduly restrictive. Media around the state are already broadcasting and printing anti-violence messages that have been developed at the national or local levels. Moreover, President Clinton recently announced that the television networks, cable program services, and video providers will begin showing violence prevention public service announcements that were developed in cooperation with the White House and the Ad Council. I believe that these ongoing efforts are highly desirable and that the Family Policy Council should build upon, not displace, such efforts.

Section 809 - Profiting from Violence-Related Products

Section 809 requires the Department of General Administration to establish a policy of refusing to purchase goods and services from any business or corporation, including parent corporations, which profit from violence-related products or services. I support

the intent of Section 804 to limit the exposure of young people to violence-related products and to discourage corporations from profiting from such products. However, the language of this section is too broad and too vague to be meaningfully implemented and also raises serious legal questions.

Section 810 - Profiting from Violence-Related Products

Section 810 requires the State Investment Board (SIB) to study and examine the extent to which it maintains investments in businesses or corporations, including parent corporations, profiting from violence-related products or services and to report the results to the legislature by December 1, 1995. While I support the intent of this section, it has the same flaws and raises the same concerns as section 809. In addition, funds to conduct the study were not included in the SIB budget.

Section 919(8) – Children and Family Services – Appropriation

Section 919(8) provides $4,142,000 General Fund-State and $1,858,000 General Fund-Federal to DSHS, Division of Children and Family Services (DCFS), to implement family services restructuring and youth violence prevention program provisions in this bill. I am vetoing this section to allow the department to maintain total funding levels intended in the Children and Family Services appropriations while adjusting the use of state and federal funds in order to ensure that the state meets the federal requirements for the Family Preservation and Support Act. I will direct the department to adhere to the intent of this proviso.

The total DCFS appropriation provides federal authority totaling $2,693,000 for new funds (Title IVB-2) authorized under the 1993 federal Family Preservation and Support Act. The budget appropriates the new funds for two purposes. First, $1,858,000 is appropriated in section 919(8) to support the activities of community public health and safety networks established by this bill. Second, $835,000 is appropriated for enhancements to therapeutic child development programs. The enhancement for therapeutic child development is not covered by a proviso.

The appropriation, by using Family Preservation and Support Act funds for enhancements to therapeutic child development programs, places the state's receipt of these funds at risk. The proposed veto would allow adjustments to funding sources that would not cause a net change in total expenditures.

With the exception of sections 302; 313; 323; 402(1) (d); 402(6); page 31, lines 11 through 26; 404(1) (b); 404(4) (a) (i); 431; 438; 606; 607; 802; 804; 805; 809; 810; and 919(8), Engrossed Second Substitute House Bill No. 2319 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

HB 2320

C 118 L 94

Reviewing sewerage or disposal systems.

By Representatives Holm, Horn, Rust and Cothern; by request of Department of Ecology.

House Committee on Environmental Affairs
Senate Committee on Ecology & Parks

Background: State law requires the Department of Ecology to review plans and specifications relating to the construction or modification of sewage treatment plants. The department administers the Centennial Clean Water Account which, in part, provides local governments with funds to construct municipal sewage systems.

Summary: The Department of Ecology may delegate authority to local governments for the review and approval of engineering reports and other technical documents. The delegation authority applies only to the construction or modification of sewer systems and industrial pretreatment systems.

Votes on Final Passage:

House	93	0
Senate	34	13

Effective: June 9, 1994

ESHB 2326

C 225 L 94

Eliminating gasohol tax exemption.

By House Committee on Transportation (originally sponsored by Representatives R. Fisher, Heavey, Cooke, Schmidt, Sheldon and Springer).

House Committee on Transportation
Senate Committee on Transportation

Background: In 1980 and 1981, legislation was passed exempting alcohol used in motor fuel from the motor fuel tax. The legislation also provided a tax credit of 60 percent of the amount of tax exempted if the alcohol/gasoline mixture (gasohol) contains at least 9.5 percent alcohol by volume.

The gasohol exemption and credit were scheduled to sunset in 1992 but were extended to 1999 in legislation passed during the 1991 legislative session. ESB 5342, passed in 1993, limits the exemption and credit to fuel containing alcohol produced by a manufacturer that sold less than eight million gallons of alcohol for use as fuel in the prior calendar year.

Pursuant to the provisions of the 1990 federal Clean Air Act amendments, the use of fuel oxygenated with alcohol or ether-based additives is now required in King, Pierce, Snohomish and Clark counties from November through February and in Spokane County from September through February. The required level of additive for oxygenation is 2.7 percent by weight which translates to about 7.7 percent by volume for gasohol.

The most common ether-based oxygenate is methyl tertiary butyl ether (MTBE) which is produced primarily from crude oil or natural gas. The gasohol exemption and credit apply to alcohol used as a feedstock in the production of an ether-based additive. Alcohol generally is not used in the production of MTBE.

The federal government provides a gasohol exemption on the 14.1 cent federal gas tax ranging from 3.0 cents to 5.4 cents per gallon depending on alcohol content.

Based on the November 1993 revenue forecast, $57 million will be claimed in gasohol exemptions and credits in the 1993-95 biennium and $70 million in the 1995-97 biennium.

Summary: The fuel tax exemption and credit for alcohol used as motor vehicle fuel is repealed. From July 1, 1994 through June 30, 1995, increased gas tax revenue resulting from the repeal is placed in the newly created gasohol exemption holding account. Revenue from the account may only be used for state highway construction. If a court finds that the bill is subject to the provisions of Initiative 601, it shall be submitted for a vote of the people at the next general election. A ballot title is provided.

Votes on Final Passage:

House	88	7	
Senate	42	7	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	38	7	(Senate amended)
House	84	5	(House concurred)

Effective: May 1, 1994

EHB 2327

C 105 L 94

Requiring appropriate services for disabled students at institutions of higher education.

By Representatives Jacobsen, Brumsickle, Quall, Basich, Ogden, Kessler, Mastin, Wood, Casada, Shin, Orr, Rayburn, Romero and Anderson.

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education

Background: In 1990, legislation was enacted directing the Governor's Committee on Disability Issues and Employment to convene a task force on students with disabilities in higher education. The task force was charged with making recommendations on the roles of state agencies, colleges, universities, and students to ensure that students with disabilities have an opportunity to obtain a higher education.

The task force identified a need to establish a clear, broad-based understanding of the rights and responsibilities of students with disabilities. In order to help colleges and universities recognize the issues and implement the recommendations, the task force suggested the passage of legislation describing core services available at each institution of higher education.

Summary: The act is intended to provide a clear, succinct statement of rights for students with disabilities. The Legislature does not intend to confer any new or expanded rights.

A student with disabilities is entitled to a core service only if the service is necessary to accommodate the student's disability. The student must be reasonable in requesting the service and the institution must respond in a reasonable and timely manner.

The suggested core services are as follows: (1) flexible procedures in the admissions process; (2) early registration; (3) sign language and oral and tactile interpreter services; (4) textbooks and other educational materials in alternative media; (5) provision of readers, notetakers, scribes and proofreaders; (6) ongoing review and coordination of efforts to improve campus accessibility; (7) facilitation of physical access including relocation of classes and institution-sponsored activities and services; (8) access to adaptive equipment; (9) referral to appropriate on- and off-campus support resources; (10) release of instructional materials in advance; (11) access to campus support resources; (12) flexibility in test-taking arrangements; (13) referral to the appropriate entity for diagnostic assessment and documentation of the disability; (14) flexibility in timeline for completion of course certification and degree; (15) flexibility in credits required to satisfy institutional eligibility for financial aid; and (16) notification of the institution's policy of nondiscrimination on the basis of disability and the procedure an aggrieved student must follow.

Votes on Final Passage:

House	94	0
Senate	44	0

Effective: June 9, 1994

HB 2333

C 162 L 94

Preventing custodial interference.

By Representatives Eide, Johanson, H. Myers, Heavey, Wineberry, Karahalios, Brough and Kessler.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: The custodial interference statutes were adopted in 1984, when the family law provisions referred to parents' "lawful right to custody" of their children. After the custodial interference statutes were adopted, the Legislature revised the domestic relations statutes, replacing the term "custody" with "residential time" as determined by "parenting plans." Custodial interference in the second degree has been amended to reflect the change in terminology. Custodial interference in the first degree has not been amended.

A parent is guilty of custodial interference in the first degree if the parent takes a child "for whom no lawful custody order" has been entered from the other parent with

intent to deprive the other parent from the child permanently or for a protracted period.

Custodial interference in the second degree applies if a parent takes a child with intent to deny the other parent access to the child and (a) the other parent has a lawful right to time with the child pursuant to a court ordered parenting plan, (b) the parent taking the child has not complied with the residential provisions of a parenting plan after a finding of contempt, or (c) the court finds that the parent taking the child has engaged in a pattern of willful violations of the residential provisions. The domestic relations statutes warn parents that if they violate the terms of the parenting plan they may be charged with custodial interference in the second degree.

The effect of having amended only custodial interference in the second degree to reflect the updated terminology of the parenting plan is that a parent who denies the other parent access to a child when a parenting plan is in effect is guilty only of a gross misdemeanor regardless of the extent or nature of the denial. If a parent removes the child from the state with the intent to go underground, capturing the parent and returning the child may be very difficult, because law enforcement agencies in other states do not act on misdemeanor warrants from other states.

Summary: The crime of custodial interference in the first degree is amended. A parent of a child commits the offense if the parent takes the child from the other parent having the right to time with the child under a court ordered parenting plan and takes the child with the intent to deny the other parent access to the child, and the parent (1) intends to hold the child permanently or for a protracted period, (2) exposes the child to a substantial risk of illness or injury, or (3) removes the child from the state.

The domestic relations warning provision is amended to provide that violation of the residential provisions of the parenting plan may constitute custodial interference in the first or second degree.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 9, 1994

SHB 2334

C 82 L 94

Printing educational publications of the state historical societies.

By House Committee on State Government (originally sponsored by Representatives Jacobsen, Ogden, Pruitt, Brough, R. Fisher, Anderson, J. Kohl and Moak).

House Committee on State Government
Senate Committee on Government Operations

Background: The State Printer is generally responsible for providing binding and printing services to the Legislature, the Supreme Court, the Court of Appeals, and all state agencies, institutions, boards, and commissions. However, some statutory exemptions apply. The State Printer is not responsible for court reports, bond certificate and bond offering disclosure documents, certain printing by institutions of higher education, and some types of printing costing $1,000 or less.

The Washington State Historical Society and the Eastern Washington State Historical Society are currently required to use the State Printer for all of their printing. In addition to the general office supplies used by all state agencies, these societies publish educational publications such as their quarterly historical magazine, books, exhibit catalogues, gallery guides and brochures.

The state historical societies are funded from a combination of general fund appropriations, membership fees, and federal or private grants and gifts. According to the Washington State Historical Society, their educational publications are funded solely from non-state monies.

Summary: The state historical societies are not required to use the State Printer for printing their educational publications.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: June 9, 1994

HB 2338

C 83 L 94

Authorizing late fees and interest for delinquent payment of fees to the Utilities and Transportation Commission.

By Representatives Bray and Long; by request of Utilities & Transportation Commission.

House Committee on Energy & Utilities
House Committee on Revenue
Senate Committee on Energy & Utilities

Background: The Utilities and Transportation Commission (UTC) regulates transportation, garbage disposal, electric, telecommunications, gas, water and low-level radioactive waste disposal companies. By statute, the UTC imposes a percentage assessment on the gross operating income of the companies that it regulates to cover the commission's expenses. The UTC does not have statutory authority to impose a late fee or interest for delinquent payments.

Some other state agencies do have such authority. For example, the state fruit commission may impose interest penalties of 10 percent on delinquent payment of assessments that the commission imposes on fruit growers. A number of licensing boards also have authority to impose

fees for licensees who are delinquent in renewing certificates. The Department of Licensing has authority to impose a 10 percent late fee on assessments for proportionally registered vehicles. The Department of Labor and Industries may impose a 1 percent per month penalty on delinquent unemployment compensation contributions from employers.

Summary: The Utilities and Transportation Commission shall impose a 2 percent late fee on delinquent payments of regulatory fees. Delinquent payments of regulatory fees shall accrue interest at the rate of 1 percent per month.

Votes on Final Passage:

House 95 0
Senate 33 13

Effective: June 9, 1994

HB 2340

C 84 L 94

Clarifying sex offender registration provisions.

By Representatives Long, Appelwick, Johanson, Padden, Karahalios, Brough, Talcott, Sheahan, Wood, Forner, Dyer, Chandler, Shin, Mielke and Springer.

House Committee on Corrections
Senate Committee on Law & Justice

Background: The Community Protection Act of 1990 requires all sex offenders residing in Washington to register with the sheriff in their county of residence. The law applies to adults and juveniles who "have been found to have committed or have been convicted of a sex offense." Sex offenders have 30 days to register following their release from confinement and 45 days to register after moving to Washington State. When relocating, offenders are required to update their registration within 10 days of their move.

The requirement to register was applied prospectively to all sex offenders released from custody or prison on or after the date the law became effective (February 28, 1990). In addition, it was applied retroactively to all persons who committed sex offenses prior to February 28 who were "in custody or under active supervision" of either the Department of Corrections or the Department of Social and Health Services on or after the law's effective date.

The term "active supervision" was not defined in the Community Protection Act and has been subject to various interpretations. Originally, the Department of Corrections interpreted the term to include offenders placed on Conditional Discharge From Supervision. The department has since redefined the term to exclude these offenders. The department also interpreted the term to include offenders on supervision in order for the department to monitor compliance with financial obligations. This interpretation has been found invalid by a Kitsap County court ruling.

Failure to register is a Class C felony for persons convicted of a Class A felony sex offense; otherwise, the failure is a gross misdemeanor. The registration requirement applies for life if convicted of a Class A felony sex offense, 15 years if convicted of a Class B felony sex offense, and 10 years if convicted of a Class C felony sex offense, unless a court waiver can be obtained by the offender.

Summary: Clarification is made regarding the state agency responsible for defining "active supervision" of sex offenders. The Department of Corrections is given the responsibility for determining which individuals are under the Department of Corrections' "active supervision" for the purpose of requiring that the individual register as a sex offender.

Any change in supervision status of a sex offender as of July 28, 1991, does not relieve the offender of the duty to register or to re-register following a change in residence.

Votes on Final Passage:

House 94 0
Senate 43 0

Effective: June 9, 1994

SHB 2341

C 85 L 94

Exempting from the sales tax certain personal services provided by nonprofit youth organizations and government agencies.

By House Committee on Revenue (originally sponsored by Representatives Romero, Cooke, Talcott, L. Thomas, Wood, Silver and Roland).

House Committee on Revenue
Senate Committee on Ways & Means

Background: The state retail sales tax applies to the sale to consumers of most goods and many services. The state tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The average local sales tax rate is 1.5 percent. The sales tax is paid by the purchaser and collected by the seller.

Taxable services include construction, repair, automobile parking and storage, telephone services, some recreation and amusement services, and services provided by abstract, title insurance, escrow, and credit bureau businesses. In 1993, the Legislature added several categories of services to the sales tax including: coin-operated laundry facilities in apartment houses, hotels, trailer camps, and tourist camps; landscape maintenance and horticultural services other than horticultural services provided to farmers; service charges associated with tickets to professional sporting events; guided tours and guided charters; physical fitness services; tanning salon services; tattoo parlor services; massage services; steam bath services; turkish bath

services; escort services; dating services; and the rental of equipment with an operator.

Physical fitness services, which are subject to sales tax, include activities such as weight lifting, running tracks, exercise equipment, aerobics classes, and personal trainers. A sales tax exemption has existed since 1981 for sales of amusement and recreation services by a nonprofit youth organization to its members. However, this exemption is limited to "amusement and recreation" activities and does not cover physical fitness activities. This exemption does not cover sales of amusement and recreation services by a government agency.

Summary: The sales tax exemption for amusement and recreational services sold by nonprofit youth organizations is expanded to include physical fitness services. A sales tax exemption is created for physical fitness classes provided by a local government.

Votes on Final Passage:

House	81	7
Senate	47	2

Effective: July 1, 1994

EHB 2347

C 226 L 94

Changing the energy building code for glazing, doors, and skylights.

By Representatives Morris, Horn, Bray and Springer; by request of Department of Community Development.

House Committee on Energy & Utilities
Senate Committee on Energy & Utilities

Background: The 1990 Legislature enacted a new residential energy code, the culmination of a multi-year effort on the part of the Northwest Power Planning Council, the Bonneville Power Administration, and others to update the state's energy code. During the negotiations over the legislation, considerable discussion focused on the thermal performance standards that would be required of windows and the testing standards that would be used to test thermal performance. A critical concern for builders was whether required energy efficiency measures would be cost-effective.

In addressing the window standards issue, the Legislature specified higher thermal performance standards for windows in housing with electric space heat than for housing with other sources of heat, such as natural gas, oil or heat pumps.

The Legislature also made specific reference to industry standard test procedures that would be used to determine a window's thermal performance. Windows must be tested using the American Architectural Manufacturers Association (AAMA) 1503.1 test or the American Society for Testing Materials (ASTM) tests C236 or C976. Since the adoption of the residential energy code, window manufacturers have produced and had their windows rated under the statutorily required standards. The National Fenestration Rating Council (NFRC) has developed a test procedure that allows for computer modeling and certification to assure that windows in the market actually perform to the rated specifications. The NFRC is also developing testing procedures for doors and skylights.

Because of recent events, the current statute has created problems for window manufacturers and builders dependent on windows that satisfy the energy code's requirements. The window industry is in the middle of a transition between using the test specified in the residential energy code and a new standardized test. Because the residential energy code mandates that a particular test be used, window manufacturers could potentially be required to have windows tested under two different procedures. Window testing can be an expensive proposition, particularly for smaller manufacturers.

A second event has created additional problems for both window manufacturers and builders. A majority of windows used by Washington builders were tested by Pacific Inspection and Research Laboratory (PIRL) of Redmond. In January 1993, the Federal Trade Commission (FTC) filed a complaint against PIRL alleging that PIRL misrepresented test results and misrepresented that industry standards were used to conduct the tests. In September 1993, PIRL and the FTC entered into a consent decree that was subsequently approved by the Federal District Court in Seattle. The decree required PIRL to retract all test results through March 16, 1992. Without these test results, many Washington window manufacturers do not have windows that meet state requirements.

The State Building Code Council (SBCC) has taken some interim actions to lessen the impact the PIRL consent decree has had on window manufacturers and the building industry. The SBCC adopted an emergency rule creating a default table. The table sets presumptive thermal performance values for windows based on certain construction elements. This enables window manufacturers and builders to continue producing and using windows that do not have valid test results until a permanent solution is available or until the windows are tested in a manner that satisfies state law.

The SBCC has also adopted a new rule adopting the new industry standard tests as the standard for testing windows to be used in Washington. In order for this rule to go into effect, a change in the residential energy code is necessary.

Summary: The state residential energy code is amended to remove the requirement that windows be tested in accordance with specific American Architectural Manufacturers Association (AAMA) and American Society for Testing Materials (ASTM) standards. Instead, windows must be tested according to appropriate standards of the National Fenestration Rating Council (NFRC). The State

Building Code Council may also approve alternative testing methods for windows. The State Building Code Council shall review NFRC standards for doors and skylights when these standards are developed. The council may adopt these standards if it determines they are appropriate. The council may also adopt alternative testing standards. Results for doors and skylights tested under the NFRC standard shall be acceptable for compliance with the state energy code.

The state residential energy code does not apply to log homes, heated with other than electric resistance heaters, where the log home has walls at least three and one-half inches thick.

Votes on Final Passage:

House	92	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	47	0	
House	97	0	

Effective: April 1, 1994

SHB 2351

C 163 L 94

Modifying provisions relating to recovery of stray logs.

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Shin, Patterson, Campbell, Finkbeiner, Forner, Appelwick, J. Kohl and Johanson).

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

Background: Transportation of logs and log raft storage were once commonplace on the waters of Washington. Licensed log patrols recovered logs that escaped from their owners and drifted or became stranded or submerged. Log patrols were licensed by the Department of Natural Resources. Only a log's owner, the owner's agent, or a licensed log patrol could recover stray logs.

While water transportation of logs is no longer commonplace, the occasional stray log can pose a threat to navigation, safety and property. The requirement that only a log's owner or a licensed log patrol may recover stray logs remains. The Department of Natural Resources also retains the responsibility for managing a log patrol licensing program for an ever-decreasing number of licensees. Currently there are three log patrol license holders in the state.

Summary: The existing log patrol statutes are repealed, and references to log patrols found elsewhere in statute are deleted.

The Department of Natural Resources is directed to convene a discussion among interested parties to review issues related to stray log recovery. By October 31, 1994, the department is to report proposed guidelines for the recovery of adrift stray logs.

Votes on Final Passage:

House	92	0	
Senate	34	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 9, 1994

HB 2369

C 119 L 94

Revising provisions for elections in cities with a commission plan of government.

By Representatives Foreman, Sheldon, Basich and Anderson.

House Committee on Local Government
Senate Committee on Government Operations

Background: A second class city or third class city with a population of from 2,000 to less than 30,000 may adopt a commission plan of government with a governing body composed of three commissioners. Commissioners possess policy-making powers, as well as administrative and executive powers. Commissioners are elected to four-year terms of office at the same general election once every four years in an odd-numbered year. There is no staggering of terms of office.

A non-code city that changes its classification to a code city may retain its prior plan of government or choose to operate under one of the two plans of government specified for code cities.

Wenatchee, Shelton, and Raymond are the only cities operating under a commission plan of government. Each of these three cities is a code city that opted to retain the commission plan of government when the city became a code city.

Summary: City commissioners are elected to staggered terms of office.

The staggering begins at the next general election when all three commissioners are elected, occurring in 1995 or 1997. The two elected commissioners who receive the greatest numbers of votes are elected to four-year terms of office, and the other elected commissioner is elected to a two-year term of office. Thereafter, all commissioners are elected to four-year terms of office.

Votes on Final Passage:

House	91	0
Senate	42	0

Effective: June 9, 1994

SHB 2370

C 86 L 94

Extending reinsurance and surplus line insurance statutes to incorporated entities.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky and Dyer).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor & Commerce

Background: Reinsurance is an insurance product purchased by an insurance company to pass some of the risk assumed by the insurance company onto the reinsurer. Since 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. However, these statutory provisions permit such a credit only when specified standards are met, standards which are designed to ensure the financial soundness of the reinsurance. One of these standards allows credit when the reinsurer is not licensed to transact business in Washington State but is a group of unincorporated underwriters that maintains a trust fund in an amount equal to the liabilities attributed to its business in the United States plus $100 million.

Surplus line is an insurance product that provides coverage for risks that do not fit normal underwriting patterns, that are not commensurate with standard rates, or that will not be covered by standard carriers. State law requires brokers to place surplus line insurance with insurers that are sound financially and precludes, among other things, insuring through an unincorporated group of individual insurers not licensed to do business in Washington unless this group maintains a trust fund of at least $50 million and meets other statutory requirements.

Summary: A group of insurance underwriters that includes both incorporated and unincorporated members, rather than only unincorporated members, and is not licensed to do business in Washington can provide reinsurance if it meets certain statutory requirements. The incorporated members of the group only can engage in the business of underwriting, and must comply with the group's solvency requirements for unincorporated members.

A group of insurance underwriters that includes both incorporated and unincorporated members, rather than only unincorporated members, and is not licensed to do business in Washington can provide surplus line insurance if it meets certain statutory requirements.

Votes on Final Passage:

House	91	0
Senate	47	0

Effective: March 23, 1994

EHB 2376

C 87 L 94

Revising the powers and duties of the Sentencing Guidelines Commission.

By Representatives Morris and Jones; by request of Sentencing Guidelines Commission.

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

Background: The Sentencing Guidelines Commission was originally assigned the task of recommending to the Legislature particular sentencing standards for felony offenses under the Sentencing Reform Act. The commission is responsible for continuing to recommend appropriate modifications to these standards and to the existing criminal code.

Current Washington law does not require the commission to collect or analyze information regarding sentencing practices in the state, to create a computerized system for recording sentencing information, or to research matters generally relating to improving the criminal justice system.

Summary: The Sentencing Guidelines Commission may:
(1) assist in collecting, preparing, analyzing and disseminating information on state and local sentencing practices;
(2) develop a computerized system to cover sentencing information, including the identity of the individual sentencing judge, on all adult felons;
(3) conduct research regarding sentencing guidelines, total confinement and its alternatives, plea bargaining, and other criminal justice matters; and
(4) conduct joint meetings with the juvenile disposition standards commission. The Sentencing Guidelines Commission staff and executive officer may also provide staffing and services to the Juvenile Disposition Standards Commission, if authorized in Chapter 13.40 RCW.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: June 9, 1994

HB 2377

C 19 L 94

Including optical imaging reproductions as business record copies admissible as evidence.

By Representatives Appelwick, Johanson, Padden, H. Myers, Ballasiotes, Tate, Scott and Anderson.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Washington has adopted the "Uniform Photographic Copies of Business and Public Records as Evidence Act." This law was last amended in 1959. It provides that certain copies of business or government records are admissible as evidence in a court proceeding to the same extent as are the original records. The act requires that a copy be accurate and durable. Copies that are expressly allowed under this act include "photographic, photostatic, microfilm, microcard, miniature photographic" and other accurate and durable copies.

Copying technology has made significant changes since 1959. Although the current law generally allows any accurate and durable copy to be used as evidence, the law does not explicitly include more modern technologies such as optical imaging.

Optical imaging is increasingly used as a method of records storage. For example, the Securities and Exchange Commission has recently specifically authorized brokers to maintain records on optical disk storage.

Summary: The Uniform Photographic Copies of Business and Public Records as Evidence Act is amended to explicitly allow the use of optical imaging as a way of producing copies admissible as evidence.

Votes on Final Passage:

House	91	0
Senate	47	0

Effective: June 9, 1994

SHB 2380

C 102 L 94

Modifying malpractice insurance coverage.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dellwo and Dyer).

House Committee on Financial Institutions & Insurance
Senate Committee on Health & Human Services

Background: In 1993, Washington passed health care reform legislation. One of the major reforms provides for definition of a Uniform Benefits Package, which is the minimum insurance benefits that must be offered to all Washington residents. Several provisions relating to health care providers' liability take effect prior to when the major reforms occur.

One of the changes made by health care reform requires that every licensed health care practitioner whose services are included in the Uniform Benefits Package must have malpractice insurance coverage by January 1, 1994, unless this insurance is not available. The Department of Health must designate by rule the health professions that include independent practice and whether malpractice insurance is available to these practitioners. The Uniform Benefits Package takes effect in 1995.

To obtain or renew medical malpractice insurance after July 1, 1994, health care practitioners must complete liability risk management training every three years.

Summary: Health care practitioners who are licensed, certified or registered must have malpractice insurance by July 1, 1995 if this insurance is available. The department must designate by rule what types of malpractice insurance coverage are acceptable.

Health care practitioners who complete risk management training any time in 1994 meet the statutory requirement and do not have to repeat this training for three years.

The Department of Health must report to the Legislature by December 1, 1994 on recommendations for implementing health care practitioner malpractice insurance requirements, especially: (1) whether exemptions should be provided; and (2) whether malpractice coverage provided by an employer is satisfactory.

Votes on Final Passage:

House	89	0	
Senate	41	0	(Senate amended)
House	88	0	(House concurred)

Effective: June 9, 1994

HB 2382

C 120 L 94

Changing gambling provisions.

By Representatives Veloria, Lisk, Heavey, Horn, Anderson, Schmidt, King, Chandler, Conway and Springer.

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

Background: In its final report to the Legislature, the Task Force on Washington State Gambling Policy included a recommendation that the reporting requirements for commercial stimulant operators should be streamlined, to the extent that this can be accomplished consistently with the public policy of the state toward gambling. The task force agreed to the following description of the state's public policy on gambling: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

The gambling code provides that an activity is operated as a commercial stimulant only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on the premises. The commission has the authority to establish guidelines and criteria for applying this definition.

Card rooms may be operated either as a commercial stimulant or by bona fide charitable or nonprofit operators.

The operators' gross receipts are generated through collection for time, not through the level of wagering at the tables. Card rooms may charge up to two dollars per half hour of playing time.

Summary: The sections of the gambling code defining "commercial stimulant" and providing the maximum fee for play at a card room are amended.

An activity is operated as a commercial stimulant only when it is an activity operated in connection with an established business, with the purpose of increasing the volume of sales of food or drink for consumption on the premises. The requirement is eliminated that the activity be incidental to the business.

The maximum amount that card rooms may charge for playing time is increased from two to three dollars per half hour of playing time.

Votes on Final Passage:

House 95 0
Senate 35 14

Effective: June 9, 1994

ESHB 2388

C 88 L 94

Providing penalties for multiple failures by a contractor or subcontractor to pay the prevailing rate of wage.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Heavey, H. Myers, Campbell, King and Anderson; by request of Department of Labor & Industries).

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

Background: Contractors on public works contracts must pay wages at least equal to prevailing wages to their employees who work on the projects. Any interested party may bring a complaint to the director of the Department of Labor and Industries who will investigate the complaint to determine whether prevailing wages have been paid. If the director determines that a violation may have occurred, a hearing will be conducted.

If prevailing wages have not been paid, the public agency which awarded the contract must withhold the amount of the unpaid wages from the retainage or any contract progress payments allocable to the contractor, and the director may proceed against the contractor's bonds. In addition, the director may assess a civil penalty of $1,000, or 20 percent of the total prevailing wage violation, whichever is greater. The civil penalty does not apply to inadvertent filing or reporting errors.

Contractors that violate the requirement to file certain records regarding prevailing wage payments are prohibited from bidding on public works projects for one year when the contractor is found to have committed two violations of the filing requirements within a five-year period. That penalty does not extend to violations of the requirement to pay prevailing wages.

Summary: If a contractor or subcontractor is found to have participated in violating the requirement to pay prevailing wages for a second time within a five-year period, the contractor or subcontractor is subject to the statutory civil penalties and is not allowed to bid on any public works contract for two years. This sanction also applies when one of the violations was a violation of the requirement to pay the prevailing wage under federal or other state law. The bidding sanction does not apply to a contractor who failed to pay the prevailing wage because he or she relied on incorrect written information from the Department of Labor and Industries.

In the case of a failure to pay the prevailing wage, the department may only proceed against the contractor's or subcontractor's bond if the contractor or subcontractor was the claimant's employer.

Votes on Final Passage:

House 90 4
Senate 33 15

Effective: June 9, 1994

EHB 2390

C 164 L 94

Clarifying statutes to reflect the organizational structure of the department of labor and industries.

By Representatives Finkbeiner, Heavey, Lisk, Chandler, Long, Forner, Conway, Johanson, Jones, Eide and Roland; by request of Department of Labor & Industries.

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

Background: The statute creating the Department of Labor and Industries specifies five divisions within the department: Industrial Insurance, Industrial Safety and Health, Industrial Relations, Apprenticeship, and Building and Construction Safety Inspection Services. Four of the five divisions are to be headed by assistant directors who have authority, with approval of the director, to employ necessary staff. Although the department has changed its organization over the years, the statute has not been amended since 1974.

During 1993, the department began a reorganization that has resulted in four divisions and six regions. The four divisions are Consultation and Compliance Services, Administrative Services, Research and Information Services, and Insurance Services.

Beginning in 1921, the industrial welfare committee was responsible for reviewing and investigating working conditions in the state. The committee was composed of the director of the Department of Labor and Industries, the

supervisor of industrial insurance, the supervisor of industrial relations, and the supervisor of women in industry. The committee was abolished in 1982 and the duties transferred to the director of the Department of Labor and Industries. References to the committee remain in the statute.

Summary: The requirement that the Department of Labor and Industries be divided into five divisions is deleted. A requirement is added that the department must be organized into divisions that promote efficient and effective performance of the agency's duties.

Other references to the five named divisions are deleted. References to duties to be performed under the divisions are changed to refer to the performance of duties delegated by the director of the department and by statute. References to the heads of the five named divisions as "assistant directors" are deleted and their authority to hire necessary staff is transferred to the director.

References to the industrial welfare committee are changed to refer to the director or the Department of Labor and Industries, with the director or the department being given the committee's responsibility over wages and working conditions.

Provisions are repealed that refer to meetings of the industrial welfare committee, that establish requirements to furnish information to the committee, and that establish an appeal process to the committee for persons aggrieved by a decision of the department.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 9, 1994

HB 2392

C 121 L 94

Including residential burglary in crimes of violence.

By Representatives Mastin, Ballasiotes, Appelwick, Grant, Kessler, Dorn, Schoesler, Roland, Sheahan, R. Meyers, Wineberry, Long, Talcott, Van Luven, Johanson, Campbell, Fuhrman, Brumsickle, Wood, Silver, Kremen, Dyer, J. Kohl, Conway, Jones, Springer and McMorris.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Prior to 1989, the crime of "burglary in the second degree" included burglaries committed by illegally entering a commercial establishment or a residence. In 1989, the Legislature decided that burglarizing a home was more serious than burglarizing commercial establishments. The Legislature created a new crime called "residential burglary" and changed "burglary in the second degree" to apply only to buildings other than dwellings. The Legislature also treated residential burglary as a more serious offense than burglary in the second degree on the Sentencing Reform Act sentencing grid.

The bill that created the new crime of residential burglary did not contain technical cross-reference corrections to other statutes that reference "burglary in the second degree" to also include reference to "residential burglary." The failure to amend those statutes may inadvertently result in an inability to apply those statutes in appropriate cases. Over time, some of those statutes have been amended to also refer to residential burglary. A few statutes remain unamended.

Summary: Statutes that refer to "burglary in the second degree" that should also refer to "residential burglary" are amended to refer to residential burglary. Those statutes include statutes which: (1) list crimes considered to be "crimes of violence" for purposes of establishing elements of a violation of the Uniform Firearms Act; (2) list crimes considered to be crimes of "harassment;" (3) establish a basis for filing an aggravated murder charge; and (4) list crimes considered to be crimes of "domestic violence" for purposes of criminal provisions governing domestic violence.

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: June 9, 1994

ESHB 2401

C 165 L 94

Disposing of residential sharps waste.

By House Committee on Environmental Affairs (originally sponsored by Representatives Linville, Horn, Rust, Quall, L. Johnson, Foreman, Wood and J. Kohl).

House Committee on Environmental Affairs
Senate Committee on Ecology & Parks

Background: There are no state requirements for the disposal of hypodermic needles generated at a household.

Rules adopted by the Utilities and Transportation Commission require a solid waste collection company to collect hypodermic needles (sharps waste) in a leak-proof, rigid plastic container that is sealed and marked "biohazardous" or "biomedical." These rules apply only to clinics, hospitals, and other commercial facilities.

Some private solid waste collection companies currently collect sharps waste containers from households as an additional service to normal garbage collection service. Some pharmacies have developed programs to accept sharps waste if it is stored within a specified hard plastic container. Other companies allow home needle users to return sharps waste containers through the mail.

Summary: A person using a public or private solid waste collection company to dispose of sharps waste must con-

tain the used needles in a red, sealed, leak-proof, plastic container. Containers meeting these specifications are defined as "sharps waste containers."

Beginning July 1, 1995, it is illegal to dispose of sharps waste or sharps waste containers into a solid waste container if a solid waste company offers collection service for sharps waste containers. It is also illegal to dispose of sharps waste or sharps waste containers into recycling receptacles regardless of service availability. It is not illegal to dispose of sharps waste containers into a household garbage receptacle if the Utilities and Transportation Commission requires this action to prevent theft of the sharps waste containers.

A person who intentionally and illegally disposes of sharps waste or a sharps waste container is subject to a maximum $50 penalty. Local health departments may enforce the penalty provisions but are directed to use education for the first two infractions and monetary penalties for subsequent infractions.

Persons disposing of sharps waste through the mail or through a pharmacy return program are not required to use household collection services. Public or private companies collecting sharps waste separately from garbage must provide information to customers on the availability and cost of the service as well as options to the service.

Pharmacy return programs cannot be designated as a solid waste handling facility and do not need a permit to accept sharps waste containers. Pharmacy return programs are required to register, at no cost, with the Department of Ecology.

Votes on Final Passage:

House	94	0	
Senate	46	1	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994
July 1, 1995 (Section 3)

SHB 2412

C 227 L 94

Revising provisions relating to registration of rental cars.

By House Committee on Transportation (originally sponsored by Representatives Zellinsky and Schmidt).

House Committee on Transportation
Senate Committee on Transportation

Background: In 1992, EHB 2964 was passed by the Legislature. EHB 2964 removed rental vehicles from the registration and licensing provisions under RCW 46.16 and, instead, allowed rental vehicles to be registered and licensed under RCW 46.87—the proportional registration statutes.

In order to process rental vehicles under the proportional registration division of the Department of Licensing (DOL), DOL determined that an administrative fee of $5.00 per rental vehicle registration was required. This cost was to offset the unique computer modifications required to properly track and register rental vehicles.

In keeping with the provisions of the proportional registration requirements in RCW 46.87.130, rental vehicles were added to those proportionally registered vehicles subject to a vehicle transaction fee. This fee is set internally by DOL and is applicable each time a vehicle is added to a Washington-based fleet and each time the proportional registration is renewed.

A $10.00 fee was also charged to rental car businesses for each set of rental car license plates issued. Special plates were developed to specifically identify the vehicles as rental cars.

Summary: A number of drive-by shootings targeted at rental vehicles occurred last year in the state of Florida. In order to avoid such problems in Washington State, the act removes the existing language requiring rental vehicles to be specially registered and licensed under the proportional registration statutes, RCW 46.87. The effect of this proposed change is that rental vehicles will be registered and licensed the same as privately-owned vehicles under RCW 46.16.

The special costs for registering and licensing vehicles under RCW 46.87 are no longer needed since the fees for registering and licensing vehicles under RCW 46.16 are already identified in statute. Thus, the $5.00 per rental registration fee required for administration under the proportional registration statutes is eliminated. The $10.00 fee for each set of rental vehicle license plates issued under the proportional registration program is eliminated. And the transaction fee is no longer applicable since rental vehicles will no longer be licensed under the proportional registration program.

Rental vehicles will, instead, be charged the same registration and licensing fees that all vehicles are charged normally under RCW 46.16.

When a rental vehicle is sold at retail, DOL may collect the motor vehicle excise tax for the remaining months of the registration year.

HB 2412 does not change the provision that rental car companies may register as a business under the proportional registration statute, RCW 46.87. Rental car companies remain exempt from the motor vehicle excise tax under RCW 82.44.020 and subject to the sales tax imposed under RCW 82.08.020.

Votes on Final Passage:

House	91	0
Senate	48	0

Effective: June 9, 1994

SHB 2414

C 100 L 94

Changing provisions relating to child passenger restraint systems.

By House Committee on Transportation (originally sponsored by Representatives Brown, R. Fisher, Appelwick, J. Kohl, King and Patterson; by request of Washington Traffic Safety Commission).

House Committee on Transportation
Senate Committee on Law & Justice

Background: Children less than two years of age are required to be restrained in a separate child passenger restraint device. Children two years of age through six years of age may be restrained with a properly adjusted and fastened seat belt.

Persons violating the child passenger restraint requirements described above may be issued a notice of traffic infraction. If the person to whom the notice of infraction was issued presents proof of acquisition of an approved child passenger restraint system within seven days to the jurisdiction issuing the notice, the jurisdiction shall dismiss the notice of traffic infraction. If the person fails to present proof of acquisition within the time required, he or she is subject to a penalty assessment of not less than $30.

Summary: A child less than three years old is required to be restrained in a child passenger restraint system in compliance with United States Department of Transportation standards. The child passenger restraint system must be secured in the vehicle according to instructions from the manufacturer of the child passenger restraint system.

A child at least three years of age but less than 10 years old is required to be restrained either in a child passenger restraint system as described above or with a safety belt properly fastened around the child's body.

Language providing for a penalty assessment of not less than $30 is stricken.

For-hire vehicles; vehicles designed to transport 16 or less passengers including the driver, operated by auto transportation companies; and vehicles providing customer shuttle service between parking, convention and hotel facilities, and airport terminals are exempt from child passenger restraint requirements.

Votes on Final Passage:

House	89	1
Senate	30	18

Effective: June 9, 1994

HB 2419

C 89 L 94

Honoring law enforcement officers who die in the line of duty.

By Representatives Riley, Wineberry, Long, Brough, Johanson, Campbell, B. Thomas, L. Thomas, Bray, Wood, Schoesler, Silver, Cothern, Kessler, Kremen, Dyer, Chandler, J. Kohl, Chappell, Jones, Sheldon, King, Orr, Carlson, Tate, Mielke, H. Myers and Roland.

House Committee on State Government
Senate Committee on Law & Justice

Background: In 1986, the Legislature established a state medal of merit to be awarded by the Governor to any person who has demonstrated "exceptionally meritorious conduct in performing outstanding services to the people and state of Washington." The medal of merit is the official decoration of the state of Washington.

The Medal of Merit Committee consists of the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of State, and the Chief Justice of the Supreme Court. Nominations are solicited from the public. From 1986 to 1993, the medal of honor was awarded to 12 recipients, but none of the recipients were law enforcement officers.

Summary: A State Law Enforcement Medal of Honor is established. The bronze medal is to be awarded by the Governor to any law enforcement officer who has been seriously injured or killed in the line of duty or who has been distinguished by exceptionally meritorious conduct.

A nominating committee will consist of representation from the following entities: the Governor's Office; the Washington State Law Enforcement Association; the Washington State Council of Police Officers; the Washington Association of Sheriffs and Police Chiefs; and the Washington State Troopers Association. The Attorney General will chair the committee and will designate a secretary. The committee will meet no less than every six months to consider nominations. The committee will adopt rules establishing nominee qualifications and protocol governing decoration.

Votes on Final Passage:

House	90	0
Senate	42	0

Effective: June 9, 1994

SHB 2424

PARTIAL VETO

C 228 L 94

Removing "massage services" from the definition of retail sale.

By House Committee on Revenue (originally sponsored by Representatives Anderson, J. Kohl, Ballard, Dellwo, King, Dyer, Grant, Brough, Dorn, Lemmon, Quall, B. Thomas, Campbell, Sehlin, Wolfe, Morris, Roland, Wood, Carlson, Silver, Orr, Sheahan, Dunshee, Cothern, Veloria, Mastin, Heavey, Long, Edmondson, Cooke, Schoesler, Kessler, Romero, Thibaudeau, Conway, Jones, Tate, Mielke, Springer and McMorris).

House Committee on Revenue
Senate Committee on Ways & Means

Background: The state retail sales tax applies to the sale to consumers of most goods and many services. In 1993, the Legislature added several categories of services to the sales tax, including massage services.

Massage services, along with tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services, are coded in the federal industrial classification manual as miscellaneous personal services. This classification system is used to organize a wide range of economic data by federal and state agencies. The Department of Revenue uses this system to organize tax data by industry.

Summary: The industrial classification code used for licensed massage practitioners is changed from "miscellaneous personal services" to "offices and clinics of health practitioners." The Department of Revenue is directed to study the effect of recategorizing massage practitioners as health practitioners and adjusting tax data categories accordingly.

Votes on Final Passage:

House	94	0
Senate	43	4

Effective: July 1, 1994

Partial Veto Summary: The veto removes the section that directed the Department of Revenue to study the effect of recategorizing massage practitioners.

VETO MESSAGE ON HB 2424-S

April 1, 1994

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. 2424 entitled:

"AN ACT Relating to taxation of massage services;"

This bill relates to re-categorizing massage practitioners as health practitioners and adjusting their tax categories.

Section 2 of this bill directs the Department of Revenue to report to the Legislature by December 1, 1994, on the effect of re-categorizing massage practitioners as health practitioners and adjusting tax categories accordingly.

However, a change in standard industrial classification does not affect the tax status or tax liability of massage practitioners, nor will it affect their licensing and certification requirements administered by the Department of Licensing. Such coding in the Department of Revenue and other agencies is for statistical purposes only. Tax liability and licensing requirements are determined by the kind of activity that the business actually performs. Substitute House Bill No. 2424 does not change the activity of massage practitioners and, therefore, will not change their tax liability.

Because section 1 does not change the tax liability or licensing/certification requirements of massage practitioners, the purpose of the review called for in section 2 becomes meaningless. For these reasons, I am vetoing section 2.

To address the concerns raised by the supporters of this bill, I am directing the Department of Revenue to meet with the prime sponsor and proponents of this legislation and discuss exactly what would be needed to accomplish their objectives.

With the exception of section 2, Substitute House Bill No. 2424 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 2428

C 20 L 94

Allowing spouses of officers of school districts to be under contract as a certificated or classified employee.

By House Committee on Education (originally sponsored by Representatives Karahalios, Foreman, Chappell, Chandler and J. Kohl).

House Committee on Education
Senate Committee on Education

Background: The law prohibits school officers and other municipal officials from involvement in contracts, hiring decisions and other matters in which the official would personally benefit.

This provision applies to most hiring decisions made by school districts. With a number of exceptions for very small districts and for the hiring of substitutes, spouses of school district officials may not be hired as teachers or classified staff.

Recently, an individual was appointed superintendent of a school district in which his spouse was employed under contract as a teacher. According to advice from the Attorney General's Office, renewal of the spouse's teaching contract would be in violation of state law.

Summary: State law is modified to allow school districts to employ under contract a spouse of a school district officer if the spouse was under contract as an employee before the date in which the officer assumed office. However, the

spouse's contract must be commensurate with the applicable district pay plan or collective bargaining agreement.

Votes on Final Passage:

House 95 0
Senate 42 0

Effective: June 9, 1994

SHB 2430

C 90 L 94

Correcting an error concerning midwifery and birth center malpractice insurance.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dyer, Zellinsky, Kessler, Romero, Jones and Springer; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor & Commerce

Background: In 1993, the Legislature created a Joint Underwriting Association for Midwives and Birthing Centers. The Insurance Commissioner approves a plan for the establishment of this nonprofit association, which is comprised of all insurance companies authorized by the Insurance Commissioner to write malpractice and casualty insurance. The joint underwriting association makes malpractice insurance available to licensed midwives, certified nurse midwives, and licensed birthing centers.

The joint underwriting association offers an insurance policy with liability limits of $1 million per individual and $3 million per occurrence.

Summary: The liability limits for malpractice insurance coverage under the Joint Underwriting Association for Midwives and Birthing Centers are changed. Coverage is provided for up to $1 million per claim (rather than per individual), $3 million per year (rather than per occurrence), or other minimum levels of mandated coverage as determined by the Department of Health.

Votes on Final Passage:

House 91 0
Senate 43 0

Effective: March 23, 1994

ESHB 2434

C 91 L 94

Changing a time limit for public works bids.

By House Committee on Commerce & Labor (originally sponsored by Representatives Riley and Basich).

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

Background: An invitation to bid on a public works contract of $100,000 or more must require, as part of the bid, the submission of the names of subcontractors with whom the prime contractor will contract to perform the categories of work listed in the bid. This requirement applies to subcontract amounts that are more than 10 percent of the contract price. The subcontractor names must be submitted within 24 hours of the bid. Failure to name the subcontractors constitutes a nonresponsive bid.

Summary: When a contractor is required to submit the names of subcontractors as part of a bid on a public works contract, the names must be submitted within one hour after the published bid submittal time instead of within 24 hours of the bid. This change applies prospectively.

Votes on Final Passage:

House 90 0
Senate 37 12

Effective: June 9, 1994

SHB 2438

C 92 L 94

Making technical corrections for the department of financial institutions.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative Zellinsky).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor & Commerce

Background: In 1993, several responsibilities of the Department of General Administration and the Department of Licensing were consolidated into a newly created Department of Financial Institutions (DFI). The Department of General Administration's responsibilities transferred to DFI include regulation of banks, savings and loans, credit unions, consumer loan companies, check cashers, and trust companies. The Department of Licensing's responsibilities transferred to DFI include regulation of franchises and securities.

Summary: Statutory references to the Department of General Administration or its Division of Banking and the Department of Licensing are corrected to reflect changes in responsibility by creation of the Department of Financial Institutions.

Votes on Final Passage:

House 91 0
Senate 47 0

Effective: June 9, 1994

SHB 2443

C 4 L 94

Modifying employer-sponsored health benefits coverage for seasonal workers.

By House Committee on Health Care (originally sponsored by Representatives Dellwo, L. Johnson, Conway, Wineberry, Wolfe, J. Kohl, Veloria, Romero and King; by request of Health Services Commission and Governor Lowry).

House Committee on Health Care
Senate Committee on Health & Human Services

Background: A major purpose of the Washington Health Services Act of 1993 is to provide health service coverage for all Washington residents. This is accomplished primarily through an employer-mandate whereby employers pay at least half of the premium of the lowest-priced uniform benefits package in the region for qualified or full-time employees and their dependents. Part-time employees receive a pro rata contribution. This mandate is phased in over a four-year period, beginning with large employers - those with more than 500 qualified employees - in July 1995 with full implementation by July 1999.

However, Washington law exempts employers of seasonal workers from the mandate. The Washington Health Services Commission was directed to make recommendations to the Governor and the Legislature by December 1, 1994, for including seasonal workers and their employers in the employer mandate provisions. To assist the commission, a multi-disciplinary Seasonal Worker Work Group was created to analyze seasonal employee/employer issues and report to the commission in November 1993.

The commission reviewed the work group report and held four public hearings around the state to gather additional public testimony. At its December meeting, the commission adopted the following recommendations: (1) repeal the exclusion of seasonal employees from the employer mandate of the Washington Health Services Act of 1993; (2) amend the act to create an advisory committee to help the commission address operational problems associated with providing employer-sponsored health insurance to seasonal and temporary employees; (3) conduct a comprehensive analysis of the financial impacts of health insurance coverage on seasonal employees and their employers; and (4) use the work group report as a starting point to develop a voluntary health care delivery and financing system to meet the needs of seasonal employees and their employers.

Summary: The definition of "seasonal employee" for the purposes of the Washington Health Services Act of 1993 is deleted.

"Seasonal employer" is defined as an employer whose business is in one or more of the following standard industry classifications: cash grains, field crops except cash grains, vegetables and melons, fruits and nuts, dairy farms, horticulture specialties, general farms primarily crops, crop services, animal services except veterinary, timber tracts, forestry services, canned, frozen, and preserved fruits and vegetables, farm produce raw material, and fresh fruits and vegetables. The commission may add additional categories.

The Health Services Commission is required to appoint a seasonal employment advisory committee composed of equal numbers of seasonal employee and employer representatives to assist the commission.

In consultation with the seasonal employment advisory committee, the commission must:

- Define seasonal employee;
- Conduct an analysis of the financial impact of health insurance coverage on seasonal employees and their employers;
- Assure that seasonal employees have the same base level of benefits, and be subject to the same point of service cost-sharing and premium contribution policies as other employees;
- Assure that affordability for seasonal employers and employees is deemed the same as for their nonseasonal counterparts;
- Give consideration to health services access and delivery issues unique to seasonal employees;
- Give consideration to the appropriateness of using a depository to administer all or part of the system of seasonal employees' health insurance coverage;
- Assure that the minimum hourly rate paid by seasonal employers towards their seasonal employees' health insurance coverage shall not have the effect of increasing the employers' monthly contribution toward seasonal employees' health insurance coverage to more than the required 50 percent of the cost of the lowest priced uniform benefits package;
- Assure that the minimum hourly payment rate shall be calculated on the basis of a 120 hour month, and shall be paid by employers on the first 30 hours of each week worked by a seasonal employee.

The commission must consider the following principles in determining the date on which employer participation begins:

- To minimize adverse economic impact of employer participation on small employers;
- To minimize the potential for peaks and valleys in employment to disproportionately influence the date upon which an employer's participation does not result in over counting or under counting qualified employees; and ensures equitable treatment of employers and employees across industries.

The commission must also give strong consideration to the principles that every effort must be made to minimize the administrative burden on seasonal employees and seasonal employers, and that no new state agency should be created.

Votes on Final Passage:

House	78	17
Senate	31	17

Effective: June 9, 1994

HB 2447

C 166 L 94

Modifying the early childhood education and assistance program.

By Representatives Roland, Brough, Dorn, Thibaudeau and Patterson; by request of Department of Community Development.

House Committee on Education
Senate Committee on Education

Background: The Early Childhood Education and Assistance Program (ECEAP), established in 1985, provides low income four-year old children with a comprehensive program including education, health, nutrition, parental involvement and social services. The purpose of the program is to give the children the skills they need to succeed in school. The program began serving 1,000 children in 1986 and currently serves approximately 6,100 children a year. A longitudinal study is being conducted to measure the effectiveness of the program. The program is administered by the Department of Community Development.

Summary: A number of changes are made to the statutes governing ECEAP to reflect changes in and growth of the program since 1985.

The term "preschool" is changed to "early childhood."

References to the federal Head Start program's rules for defining eligibility and program criteria are deleted. State standards are more clearly specified. Several definitions are added.

An "eligible child" is defined as a child under five years of age and living at 100 percent of the federal poverty level. Priority must be given to children from families with the lowest incomes or to eligible children of families with multiple needs.

Program standards for parental involvement are more clearly specified and include participation with the child's program, in local policy decisions, in developing and revising service delivery systems, and in parent education and training.

The department is given specific authority to contract for services with public or private nonsectarian organizations including school districts, educational service districts, community and technical colleges, local governments and nonprofit organizations. The reference to requiring the use of existing federal contractors when possible is deleted.

Each approved program is required to conduct needs assessments and identify targeted groups of children.

Language limiting enrollment in the program to 5,000 children is deleted.

Grants are no longer required to be awarded competitively but will be awarded based on local community needs and demonstrated capacity to provide services.

Reporting requirements are changed. The Governor is no longer required to report on whether or not the program should be continued or expanded. The Governor is required to report on the status of the program, the need for services, and how the needs will be addressed.

The standards for assessing the effectiveness of the program are changed to measure the average level of performance of children in the program with the average level of performance of all state students and with the average level of performance of eligible children who did not participate in the program.

Votes on Final Passage:

House	95	0	
Senate	44	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 1, 1994

SHB 2452

C 70 L 94

Modifying provisions regarding shipping wine.

By House Committee on Agriculture & Rural Development (originally sponsored by Representatives Rayburn, Lisk, Mastin, Chandler, Lemmon, Grant, Finkbeiner, Wineberry, Bray, Cothern and Dyer).

House Committee on Agriculture & Rural Development
Senate Committee on Labor & Commerce

Background: State law authorizes the delivery of wine from an out-of-state winery directly to residents of this state if the laws of that state grant Washington wineries reciprocal authority.

Such an out-of-state winery may ship, for personal use and not for resale, not more than two cases of wine of its own manufacture per year to any state resident 21 years of age or older. However, the out-of-state winery must first obtain a license from this state's Liquor Control Board before shipping wine into Washington.

Pickup, delivery, or acceptance of any container of wine that is shipped into this state in violation of this license requirement is a civil violation, punishable under the alcoholic beverage control laws.

Summary: It is no longer a civil violation to pick up or deliver wine that is shipped into this state from a person not licensed under the wine shipment reciprocity law.

Votes on Final Passage:

House	94	1
Senate	49	0

Effective: June 9, 1994

SHB 2456

C 122 L 94

Eliminating references to reclassified reforestation lands.

By House Committee on Revenue (originally sponsored by Representatives Valle, Silver, Morris, Talcott, Wolfe, Romero and Van Luven).

House Committee on Revenue
Senate Committee on Ways & Means

Background: In 1931, the Legislature adopted a law to give private timberland owners the option of having their cut-over lands classified as "reforestation" land by the state Department of Forestry. Once classified, the land was subject to a annual tax of $1 an acre in western Washington and $.50 an acre in eastern Washington. The standing timber was exempt from the annual property tax but instead was subject to a "yield" tax of 12.5 percent of the harvest value when cut. About 550,000 acres were classified as reforestation land.

In 1971, the Legislature adopted a yield-tax system for all private timber. All land that is classified or designated as timberland is subject to the annual property tax only on the land. The standing timber is exempt from the annual property tax but subject to a yield tax of 5 percent of the harvest value when cut. The annual property tax on the land is based on land values set in statute. These land values are adjusted each year by one-half the percentage change in the five year rolling average of timber stumpage prices. The 1971 law stopped new classifications of reforestation land.

On July 1, 1984, the classification of timberland as reforestation land was terminated. Reforestation land was reclassified under the new timber tax law and made subject to the annual property tax on the same land values as classified and designed timberland.

Starting in 1984, the 12.5 percent yield-tax rate for reforestation timber was gradually reduced. The phase-down ended in 1994, with reforestation timber paying the same 5 percent rate applicable to other timber.

Summary: The laws relating to the taxation of timberlands classified as reforestation lands are repealed. (The "classified" reforestation timber and timberlands will remain subject to the same taxes as other timber and timberland.)

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: January 1, 1994

HB 2477

C 123 L 94

Modifying property tax administrative procedures.

By Representatives Foreman, Romero, Brown, Brough, Carlson, Karahalios, Van Luven, Long, Cooke and Wood; by request of Department of Revenue.

House Committee on Revenue
Senate Committee on Ways & Means

Background: A nonprofit organization, association, or corporation seeking a property tax exemption must file a $35 fee with the initial application and a $35 renewal fee every fourth year thereafter. The entity is also required to file an annual certification that the property is being used for an exempt purpose.

The owner or person responsible for paying property taxes on property 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 that the value change notice was mailed, whichever is later. The statute does not allow any grace period or exception of any kind.

Summary: A nonprofit organization, association, or corporation receiving a property tax exemption must file a renewal declaration each year with a fee of $8.75.

A county board of equalization may waive the filing deadline for an appeal of assessed valuation when the petitioner shows good cause for a late filing. Good cause includes death or serious illness of the taxpayer or his or her immediate family, absence of the taxpayer for more than 15 of the 30 days before the filing date, incorrect advice regarding filing requirements received from taxing officials, natural disasters, delays or losses related to the delivery of the petition by the postal service, and other circumstances as the department may provide by rule.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 9, 1994

HB 2478

C 229 L 94

Requiring reporting to the Department of Revenue by purchasers of timber and logs.

By Representatives Foreman and G. Fisher; by request of Department of Revenue.

House Committee on Revenue
Senate Committee on Ways & Means

Background: The Forest Excise 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 by law to establish timber stumpage values semi-annually. Until 1992, 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.

In 1992, the department adopted an administrative rule requiring buyers of privately-owned timber to report details of sales in excess of 100,000 board feet.

Summary: Purchasers of more than 200,000 board feet of privately-owned timber are required to report the details of the transaction 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 details of timber purchases expires March 1, 1997.

Votes on Final Passage:

House	94	0	
Senate	35	2	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House	94	0	(House concurred)

Effective: June 9, 1994

SHB 2479

C 124 L 94

Making technical corrections of excise and property tax statutes.

By House Committee on Revenue (originally sponsored by Representatives G. Fisher, Foreman, Karahalios and Springer; by request of Department of Revenue).

House Committee on Revenue
Senate Committee on Ways & Means

Background: Many excise and property tax statutes contain outdated provisions. Many statutes do not use gender-neutral terms. Many of these statutes could also be improved by correcting technical deficiencies.

Summary: The act corrects out of date language in several tax statutes. For example, "board of county commissioners" is replaced by "county legislative authority", and "State Board of Equalization" is replaced by "Department of Revenue." The act changes gender-specific references to gender-neutral terms. For example, "he" is replaced by "the assessor" in several sections. The act also: repeals an internal distributions tax exemption that was held invalid in a court decision; clarifies that only "bona fide" dues and contributions are exempt from B&O tax; clarifies that the use tax exemption for natural or manufactured gas applies only to gas subject to the special use tax on brokered natural gas; deletes meaningless words from the public utility tax deduction for electricity sold outside of this state; eliminates the definitions of water, heating and toll bridge companies from the list of utilities that are centrally assessed, because there are no longer any centrally assessed utilities of these types; changes the date by which a utility or private car company may request a hearing on its tax assessment and the date on which this hearing may be held (in this way a utility or private car company is given more time to appeal its tax assessment); clarifies that the real and personal property of cemeteries, churches, parsonages and convents are entitled to a property tax exemption; clarifies that the Department of Revenue is the proper recipient of an application for exemption from a nature conservancy; corrects inaccurate cross references; deletes language that refers to assessment year 1973; clarifies that the Department of Revenue accredits and the Department of Licenses certifies appraisers; repeals statutes authorizing the State Tax Commission to reassess property located within a single county for local taxation purposes because these statutes were declared unconstitutional in the 1930s; and clarifies that the multistate activities credit for the business and occupation tax applies to processors of meat products.

Votes on Final Passage:

House	95	0
Senate	44	0

Effective: June 9, 1994

HB 2480

PARTIAL VETO

C 167 L 94

Relating to the taxation of manufacturers of fish products.

By Representatives G. Fisher and Foreman; by request of Department of Revenue.

House Committee on Revenue
Senate Committee on Ways & Means

Background: To provide fair treatment to businesses that operate both in other states and in Washington, Washington provides a credit against the Washington business and occupation tax (B&O) for similar taxes paid in the other states. For example, if a business manufactured a product in another state and sold the product in Washington, the taxpayer may owe a B&O type tax to the state where the manufacturing took place and B&O tax to Washington where the selling activity took place. Washington allows a credit against the selling tax for the manufacturing tax paid to the other state. In this way, only one tax applies to the manufacturing and selling activity. This same treatment applies when the manufacturing and the selling both take place in Washington.

The Department of Revenue has decided that a taxpayer may take a tax credit against Washington's B&O tax based on an Alaska B&O type tax paid on certain fish processing activity in Alaska. The activity is the gutting of salmon, removing the head, tail and fins, and freezing the

"whole" salmon. Taxpayers are permitted to credit payments of the Alaska tax against Washington's B&O tax upon selling the salmon in Washington. However, the department does not consider this fish processing activity to be a manufacturing activity. Therefore, if this activity is done out-of-state, it is considered manufacturing and eligible for a tax credit. If the activity is done in state, it is not considered manufacturing.

Cities and counties are authorized to issue permits for a variety of activities. These local governments may charge fees for issuing the permits.

Summary: An exemption from the manufacturing tax is provided when fish are gutted, and heads, tails and fins are removed. (The wholesaling or retailing tax continues to apply when the fish are sold in Washington.)

Local governments are prohibited from charging permit fees for fish enhancement projects that are proposed by state agencies, cooperative groups, and regional fisheries enhancement groups.

Votes on Final Passage:

House	95	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	45	0	
House	95	0	

Effective: March 30, 1994

Partial Veto Summary: The provision prohibiting local governments from charging permit fees for fish enhancement projects is vetoed.

VETO MESSAGE ON HB 2480

March 30, 1994

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. 2480 entitled:

"AN ACT Relating to taxation of manufacturers of fish products;"

This bill relates to providing an exemption for fish processors from the manufacturing tax when fish are processed in Washington. Section 2 of the bill prohibits local governments from charging permit fees for fish enhancement projects that are proposed by state agencies, cooperative groups, and regional fisheries enhancement groups.

Section 2 places an undue burden on the state's local governments. If this section were to become law up to 300 projects a year that currently require local government permits would be impacted. While these fish enhancement projects are very worthwhile, many of them are very complex and controversial, and local governments should not be denied the ability to levy permit fees for the work the projects require.

For this reason I am vetoing section 2 of this bill.

The Association of Washington Cities and the Washington Association of Counties have indicated a desire to work with the Executive branch and members of the legislature who are interested in promoting fish enhancement projects and see if a reasonable accommodation can be found.

With the exception of Section 2, House Bill No. 2480 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

HB 2481
C 93 L 94

Modifying use tax on tangible personal property used in this state by a person engaged in business outside this state.

By Representatives Holm, G. Fisher, Foreman and Kremen; by request of Department of Revenue.

House Committee on Revenue
Senate Committee on Ways & Means

Background: The state retail sales tax is imposed on sales of most articles of tangible personal property and certain services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition of the property has not been subject to sales tax. Use tax is equal to the sales tax rate multiplied by the value of the property used. The use tax commonly applies to purchases made by out-of-state sellers. The use tax also applies to the use of tangible personal property in this state by nonresident businesses. If property is used in this state by a nonresident business for less than 90 days in a 365-day period, the use tax is based on the reasonable rental value for the period, rather than the full value of the property.

For tax purposes, the use of property is defined as the first use within the state. However use tax is not due on property received from outside the state until the transportation of the article has finally ended or until the article has become commingled with the general mass of property in this state.

Summary: The act changes the time limit for using the reasonable rental value as the basis for use taxation of property temporarily in this state from 90 to 180 days. The bill also deletes statutory language prohibiting use taxation before the transportation of an article has finally ended or before the property has become commingled with the general mass of property in this state.

Votes on Final Passage:

House	93	1
Senate	45	0

Effective: July 1, 1994

HB 2482

C 125 L 94

Extending the qualifying date for tax deferral of certain investment projects.

By Representatives Holm, Foreman, Brough, B. Thomas, Forner, Long, Springer, Kessler, Cooke and Wood; by request of Department of Revenue.

House Committee on Revenue
Senate Committee on Ways & Means

Background: In 1993, the Legislature extended the application deadline for tax deferrals for manufacturing or research and development projects from July 1, 1994, to July 1, 1998. However, the Governor vetoed a section of the bill because it also expanded eligibility for deferral to additional projects. As a result of the veto, the date by which projects must start is December 31, 1994, although the application deadline is July 1, 1998.

Summary: The project initiation deadline for manufacturing or research and development projects eligible for a tax deferral is changed from December 31, 1994, to December 31, 1998.

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: June 9, 1994

HB 2486

C 126 L 94

Delaying or repealing specified sunset provisions.

By Representatives Ogden, Silver, Fuhrman, Valle, Sommers, Chandler, Brough, Dyer, Talcott, Forner, Long and Wood; by request of Legislative Budget Committee.

House Committee on State Government
House Committee on Appropriations
Senate Committee on Government Operations

Background: The Asian-American Affairs Commission was established in 1972 by executive order, and in 1974 by the Legislature, to advocate for the concerns and needs of the Asian and Pacific Islander communities in Washington state. The 12-member commission advises the Governor, the Legislature, and state agencies on desirable changes in programs and the law, and on program implementation. The commission also conducts educational activities and publishes resource information. The commission is scheduled to sunset in 1996.

In 1949, the Legislature established the Human Rights Commission to carry out the provisions of the Washington Law Against Discrimination. The commission investigates complaints alleging unfair practices and state agency noncompliance with affirmative action rules. The five- member commission also formulates anti-discrimination policies and makes recommendations to state and local government agencies on these policies. The commission is authorized to conduct technical studies and educational programs. The commission is scheduled to sunset in 1996.

The Office of Minority and Women's Business Enterprises (MWBE) was established in 1983 to provide for increased participation by minority-owned and women-owned businesses in state contracting and purchasing. The office certifies MWBE firms, monitors compliance with the law, investigates complaints, sets annual participation goals, and conducts informational and educational programs. The office has a 21-member advisory committee to assist in policy development. The office is scheduled to sunset in 1995.

The State Fire Protection Policy Board was created in 1986 to develop a comprehensive state policy regarding fire protection services. The duties of the 10-member board include adopting a state fire protection master plan, adopting a state fire training and education master plan, developing plans regarding the construction and operation of training facilities, and developing arson control programs. The board is scheduled to sunset in 1996.

In 1947, the Washington School Directors' Association was established to coordinate programs and procedures pertaining to policy-making, control, and management of school districts. The 15-member association is funded from membership dues. It is scheduled to sunset in 1998.

In 1993, the Legislature enacted the Linked Deposit Program to provide an incentive for financial institutions to make loans to minority-owned and women-owned businesses at reduced rates. The program has not yet been implemented, but is scheduled to sunset in 1996.

The Future Teachers Conditional Scholarship Program was established in 1987 to encourage outstanding students to enter the teaching profession. The program is administered by the Higher Education Coordinating Board. Participants are required to repay the conditional scholarship, with interest, unless they teach for 10 years in the public schools of the state.

According to the Legislative Budget Committee, sunset or other oversight reviews have previously been conducted for the Asian-American Affairs Commission, the Human Rights Commission, the Office of Minority and Women's Business Enterprises, and the Washington School Directors' Association.

Summary: The sunset reviews and termination dates for the following offices, boards, commissions, and associations are repealed: The Asian-American Affairs Commission; the Human Rights Commission; the Office of Minority and Women's Business Enterprises; the State Fire Protection Policy Board; and the Washington School Directors' Association.

The sunset of the Linked Deposit Program is moved from 1996 to 2000. The Future Teachers Conditional Scholarship Program is extended until June 30, 1995.

Votes on Final Passage:

House	91	0	
Senate	35	11	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	42	3	
House	96	0	

Effective: June 9, 1994

EHB 2487

C 127 L 94

Revising provisions relating to employer reporting to the Washington state support registry.

By Representatives Appelwick, Forner and Karahalios; by request of Department of Social and Health Services.

House Committee on Judiciary

Background: The office of support enforcement, which is part of the Department of Social and Health Services, has established an employer reporting program to assist the office in collecting child support. Under the program, certain employers are required to report to the Washington State Support Registry when the employer hires a person or rehires a person previously laid off or fired. Employers required to participate in the program include employers in the standard industrial classifications (sic) as follows:

(1) construction industry sic codes: 15, building; and 16, other than building;
(2) manufacturing industry sic code 37, transportation equipment;
(3) wholesale trade industry sic codes: 73, business services, except sic code 7362 (temporary help supply services) ; and 80, health services.

The office must promptly destroy the information received if the employee does not owe child support. The agency has adopted the position that the information is confidential and does not share the information with other state agencies.

Summary: The construction industry special trades standard industrial classification code number 17 is added to the employer reporting program. Technical changes are also made.

The Department of Social and Health Services must make the information available to other state agencies so those agencies can detect improper or fraudulent claims. The requesting agency must keep the information confidential except as necessary to implement its duties and must destroy the information if the agency does not need it.

Votes on Final Passage:

House	96	0
Senate	45	4

Effective: June 9, 1994

SHB 2488

C 230 L 94

Providing for child support enforcement operations.

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Forner and Karahalios; by request of Department of Social and Health Services).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Law & Justice

Background: The Office of Support Enforcement (OSE) enforces child support orders. OSE is contained within the division of revenue in the Department of Social and Health Services (department). OSE is required to implement a number of federal regulations issued pursuant to Title IV-D of the Social Security Act.

Notice of health insurance coverage.

A parent ordered to provide health insurance coverage for a child must provide proof of the coverage within 20 days of entry of the court order. The parent is not under an obligation to inform the custodian or the department if health insurance is not available.

Immediate wage withholding.

OSE must provide child support services: (a) whenever public assistance is paid (Title IV-D cases) ; (b) whenever a request for non-assistance support enforcement services is received; (c) whenever a court order directs a parent to make payments to the support registry; (d) whenever a court order is forwarded to the registry; and (e) whenever an obligor submits a payment of support to the registry. When a parent is not receiving public assistance and has not requested enforcement assistance, the office provides "payment only services" and does not take any automatic enforcement action against the responsible parent. OSE implements immediate wage withholding actions only in those cases receiving OSE enforcement services.

Immediate wage withholding may be taken without the obligor failing to make payments, unless the parties reach a written agreement approved by the court that provides for an alternative payment plan, or the court finds good cause not to require immediate wage withholding.

On April 5, 1993, the federal government notified the states that they must implement immediate wage withholding enforcement actions for all court orders that require withholding, even if the parties have not requested the office to enforce their orders. This new requirement applies to orders entered on or after January 1, 1994.

Miscellaneous provisions.

OSE's records are confidential. Information may be released to certain entities for child support enforcement services. Currently, federally recognized tribes are not listed among the entities entitled to obtain the information.

The federal Omnibus Reconciliation Act of 1993 mandates that states create a rebuttable or conclusive presumption of paternity if genetic testing results indicate a

threshold probability that the alleged father is the child's father. The act also requires states to establish procedures for allowing a party to object to the results of genetic tests and to enter a default judgment when a party fails to object.

OSE is required to appear in adjudicative proceedings contesting child support if requested to attend those proceedings by either party.

Current law requires OSE to attach a copy of the father's affidavit acknowledging paternity to the notice OSE serves on the father for payment of support. Many of these affidavits filed with the state prior to 1988 have been sealed and archived. The Center for Health Statistics maintains a record of these archived paternity affidavits on their database. OSE would like to attach a certification from the Center for Health Statistics that the center has a paternity affidavit on file rather than attach the actual affidavit.

OSE may issue a notice to withhold and deliver property of an obligor to a variety of persons and entities believed to be in possession of property of an obligor owing child support. Agencies of the federal government are not on the list. OSE must notify the obligor of the order to withhold and deliver either by certified mail or by methods prescribed under court rules for service of process.

Employers are currently required to respond to two different enforcement mechanisms available to OSE: an order to withhold and deliver and a notice of payroll deduction. Although the enforcement mechanisms are very similar, minor differences exist between the two.

Summary:

Notice of the unavailability of health insurance coverage.

Within 20 days of entry of a court order that requires a parent to provide health insurance coverage, the parent must provide proof of the coverage or proof that the coverage is unavailable.

Immediate wage withholding.

If OSE is providing support enforcement services or if a parent has applied for those services, the parent may request that immediate wage withholding not be ordered if the parent establishes good cause. Under those circumstances, a parent will have to initiate a wage withholding action on his or her own if the responsible parent does not pay, unless the parent later submits a request to OSE for enforcement services.

In cases in which OSE is not involved, the court must order immediate wage withholding unless the parties establish cause or the parties enter into an alternative payment plan. If the court orders immediate wage withholding, the payments must be made to the registry. However, the parent must serve and enforce the mandatory wage assignment order.

If parents do not actually request enforcement services, their cases will be treated as "payment only" cases.

Miscellaneous provisions.

Federally recognized tribes are included in the list of entities that may receive OSE's confidential information for child support enforcement services.

A man is presumed to be the father of a child if genetic testing indicates a 98 percent or greater probability of paternity. Any objection to the test must be filed within 20 days of the hearing. Other procedures are adopted to comply with federal law.

When OSE appears or participates in an adjudicative proceeding, it must act in furtherance of the state's financial interest in the matter; act in the best interest of the children of the state; facilitate resolution of the controversy; and make independent recommendations to ensure the integrity and proper application of the law and process. OSE does not act on behalf of or as an agent or representative of an individual.

OSE may attach to the notice and finding of financial responsibility a certification of birth record information from the Center for Health Statistics, advising of the existence of a filed affidavit acknowledging paternity.

OSE may send orders to withhold and deliver property belonging to an obligor to agencies of the federal government.

Provisions governing orders to withhold and deliver are amended to be more consistent with procedures governing payroll deduction notices.

When OSE issues an order to an entity to withhold and deliver assets of an obligor in the entity's possession, OSE may notify the obligor of the order by regular mail.

Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 9, 1994

HB 2492

C 21 L 94

Modifying federal requirements regarding medical assistance.

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

House Committee on Health Care
Senate Committee on Health & Human Services

Background: The Department of Social and Health Services (DSHS) is authorized to recover the nursing home costs that the state paid under medicaid for persons 65 years old or older who die while in the nursing home or during related hospitalization. The department does not recover these funds if there is a surviving spouse.

Effective October 1, 1993, the federal government made substantial changes to the medicaid nursing home eligibility rules relating to transfers of assets, trusts and

estate recovery. As a result of the new federal mandates, all states are required to adopt the following changes in order to receive matching federal funds through medicaid:

(1) The age of the medicaid recipient subject to estate recovery must be lowered from age 65 to 55.
(2) There will be no exemptions for a surviving spouse, except that the recovery cannot be made until after the death of the survivor.
(3) Rules must be adopted to wave estate recovery when undue hardship would result, according to guidelines established by federal regulations.
(4) Recovery must be expanded to include Medicaid Community Options Program Entry System (COPES).

Summary: The Department of Social and Health Services is required to recover the amount of money spent by medicaid for a person age 55 or older who dies while in a nursing facility or during related hospitalization. Specific costs subject to collection include nursing facility services, home and community-based services, and related hospital and prescription drug services.

DSHS is required to establish procedures to waive recovery where recovery would cause undue hardship for the surviving spouse. DSHS is also authorized to conduct the recovery from the estate, based on specified department collection actions.

The changes in the estate recovery rules only apply to medicaid benefits paid on or after October 1, 1993. Collection actions may begin on July 1, 1994.

Votes on Final Passage:

House	66	24
Senate	41	7

Effective: July 1, 1994

HB 2494

C 168 L 94

Requiring moving companies to use a Washington utilities and transportation commission permit number for advertisements.

By Representatives Jones, Mielke and Kremen.

House Committee on Transportation
Senate Committee on Transportation

Background: Household goods carriers (moving and storage companies) are regulated by the Utilities and Transportation Commission (UTC) when performing intrastate moves. Carriers must obtain operating authority from the UTC and are assigned a UTC permit number.

Some illegal carriers, operating without UTC authority, are advertising their services as moving and storage companies. Because there is no identification requirement, it is difficult for the general public to know if the mover is a certificated carrier.

To ensure consumer protection, construction contractors such as builders, electricians, and plumbers are required to list their state contractor's number when advertising.

Summary: When advertising, intrastate household goods carriers are required to list their UTC permit number in all advertisements that bear the carrier's name or address. Included in the advertising requirements are contracts, correspondence, cards, signs, posters, papers, documents, the yellow pages of the telephone book or other directories.

If the carrier contracts with an advertising agency to advertise through a FAX service or other electronic transmission, the UTC permit number is not required on the FAX as long as it is recorded in the advertising contract.

It is unlawful to use a false or inaccurate permit number. If a certificated carrier or a carrier acting as a moving and storage company violates the advertising provisions, the commission may impose an administrative penalty of $500 per violation.

Votes on Final Passage:

House	92	0
Senate	32	16

Effective: June 9, 1994

HB 2508

C 103 L 94

Modifying the health professional temporary resource pool.

By Representatives Dellwo, Dyer and L. Johnson; by request of Department of Health.

House Committee on Health Care
Senate Committee on Health & Human Services

Background: Under a 1990 state law, the Department of Health has administrative responsibility for the Health Professional Temporary Substitute Resource Pool program. The program is intended to assist rural communities in providing short-term assistance in obtaining health providers where shortages exist. The department contracts with the Area Health Education Center, an affiliate of Washington State University, which works directly with the communities and administers the program.

The department must establish the program, but its authority to contract for providing assistance to local communities is unclear.

The department must screen health providers, who are on the registry as available for practice on a short-term basis, for any unprofessional conduct.

For participating health providers, the department is required to reimburse travel and lodging, purchase or reimburse the cost of malpractice insurance premiums if necessary, and provide information on back-up support. The department may require a community match.

Certified Health Plans are not referenced as entities that may request assistance.

The department is required to establish the procedures and forms for the resource pool program and to respond promptly to all requests for assistance.

Summary: The Department of Health is expressly authorized to contract with entities in meeting its responsibilities for the Health Care Professional Substitute Resource Pool.

The department must list on a register those health practitioners available for temporary practice in rural communities, but its responsibility for screening providers for unprofessional conduct is repealed.

The rural community sites may receive reimbursement from the department for travel and lodging and malpractice insurance costs for participating practitioners, but the site is responsible for all salary expenses and referral and back-up coverage information.

Certified health plans may request temporary substitute provider assistance.

The department may either provide or contract for services that establish procedures and forms and that respond to requests for provider assistance.

Votes on Final Passage:

House	91	0
Senate	46	0

Effective: June 9, 1994

E2SHB 2510

PARTIAL VETO

C 249 L 94

Implementing regulatory reform.

By House Committee on Appropriations (originally sponsored by Representatives R. Meyers, Reams, Brough, Dorn, Dunshee, Johanson, Pruitt, Shin, Zellinsky, Carlson, R. Johnson, J. Kohl, Karahalios, Basich, Jones, Bray, R. Fisher, Holm, Moak, Sheldon, Valle, Chappell, Eide, Wolfe, B. Thomas, Dyer, King, G. Fisher, L. Johnson, Dellwo, Ogden, Roland, Grant, Jacobsen, Quall, Raybum, Morris, Romero, Rust, Kremen, Conway, Linville, Patterson, Forner, Long, Mielke, Springer, Cothern, Kessler, H. Myers, Tate, Backlund, Cooke, Wood and Mastin; by request of Governor Lowry).

House Committee on State Government
House Committee on Appropriations
Senate Committee on Labor & Commerce

Background: In August of 1993, Governor Lowry established, by executive order, the Task Force on Regulatory Reform. The task force was directed to develop recommendations for statutory and administrative changes to achieve more reasonable, efficient, cost-effective, and coordinated regulatory actions. Although the work of the task force is scheduled to be completed by December 1, 1994, the task force has submitted interim recommendations to the Governor that address legislation, the Joint Administrative Rules Review Committee, state agency rule-making, small business impacts, and technical assistance.

JOINT ADMINISTRATIVE RULES REVIEW COMMITTEE (JARRC): The Joint Administrative Rules Review Committee is authorized to recommend the suspension of an agency rule when it finds that the rule does not conform with the intent of the Legislature. A suspension recommendation requires a two-thirds vote. The Governor is required to approve or disapprove the recommended suspension within 30 days. If the Governor approves the suspension, the suspension is effective until 90 days after the expiration of the next regular legislative session. The code reviser is required to publish JARRC's suspension recommendation and the Governor's approval or disapproval in the Washington State Register and reference this entry in the next edition of the Washington Administrative Code. However, a JARRC suspension recommendation does not establish a presumption as to the legality or constitutionality of the rule in subsequent judicial proceedings.

STATE AGENCY RULE-MAKING: Under the Administrative Procedures Act, agencies are encouraged, but not required, to seek public comments regarding possible rule-making before beginning the formal rule-making process.

An agency is required to maintain a rule-making file for each rule that it proposes or adopts. This file and the materials it incorporates must be available for public inspection. Among other items, the file must contain: all written comments received by the agency on the proposed rule adoption; a transcript or recording of presentations made during rule-making proceedings and any memorandum prepared summarizing the presentations; petitions for exceptions to, amendment of, or repeal or suspension of the rule; a concise explanatory statement identifying the agency's reasons for adopting a rule and a description of any differences between the proposed and adopted rule; and documents publicly cited by the agency in connection with its decision.

Any person may petition a state agency to adopt, amend, or repeal a rule. Within 60 days, the agency is required to either deny the petition and state the reasons for the denial, or initiate rule-making proceedings.

SMALL BUSINESS IMPACT: The Regulatory Fairness Act was adopted to minimize the proportionally higher impact of agency rules on small businesses. When a proposed rule will have an economic impact on more than 20 percent of all industries, or more than 10 percent of any one industry, the agency is required to: (1) reduce the economic impact of the rule on small businesses; and (2) prepare a small business economic impact statement.

Agencies may reduce a rule's impact by exempting small businesses from some or all of the rule's requirements, simplifying compliance or reporting requirements

for small businesses, establishing different timetables for small businesses, or establishing performance rather than design standards.

Small business economic impact statements analyze the cost of business compliance with the rule, including costs of labor, supplies, equipment, and increased administrative costs. Small business compliance costs are compared with the costs of compliance for the largest businesses. Costs are analyzed in terms of cost per employee, cost per hour of labor, or cost per $100 of sales. Statements also include a description of reporting, record keeping and other compliance requirements, and the kinds of professional services that a small business is likely to need to comply. Agencies are not required to prepare a small business economic impact statement if the rule will have a minor or negligible economic impact, or if the rule is required by federal law.

STATE AGENCY TECHNICAL ASSISTANCE: The Department of Labor and Industries operates a voluntary compliance program that provides on-site or other types of consultations to employers regarding their compliance with health and safety standards. These visits are not regarded as inspections, nor is any enforcement action taken unless a serious violation is found and the violation is not or cannot be satisfactorily abated by the employer.

The Department of Ecology is also authorized to appoint technical assistance officers to provide on-site consultation to businesses to help them comply with environmental regulations. The technical assistance officer may report violations to enforcement personnel within the department, but may not take enforcement action unless persons or property are at risk of substantial harm.

Summary:

JOINT ADMINISTRATIVE RULES REVIEW COMMITTEE REVIEW:

JARRC is authorized to review whether rules have been adopted in accordance with new rule-making requirements and other provisions of law. JARRC is authorized to recommend suspension of an existing rule by a majority vote. The suspension recommendation will be transmitted to the appropriate standing committees of the Legislature. If the Governor disapproves JARRC's suspension recommendation, the agency is required to either state in writing why the rule was adopted within the scope of the agency's statutory authority, or commence rule repeal or amendment proceedings.

A JARRC suspension recommendation by a two-thirds vote based on the grounds that the rule does not conform with legislative intent establishes a rebuttable presumption in any proceeding challenging the validity of the rule that the rule is invalid.

JARRC is authorized to require agency preparation of a small business economic impact statement prior to rule adoption.

STATE AGENCY RULE-MAKING: Agencies must solicit comments from the public on a subject of possible rule-making prior to publishing a proposed rule adoption. Agencies are required to prepare, file with the code reviser, and send to interested parties a statement of intent that identifies the need for and goals of the rule, as well as the process for participation by interested parties. Agencies are required to determine whether negotiated rule-making, pilot rule-making or another participation process is appropriate. If these processes are not used, the agency must place written justification in the rule-making file.

Any person may petition the Governor to repeal certain emergency rules within seven days of adoption. The Governor is required to respond to the petition within seven days. If the Governor repeals a rule, any sanction based on that rule is void. An agency adopting an emergency rule must either comply with new rule-making requirements or provide written justification for failing to do so.

Prior to adopting certain rules, agencies are required to determine that: (1) The rule is needed; (2) the likely benefits justify likely costs; (3) there are no reasonable alternatives that would be as effective but less burdensome; (4) any fee imposed will generate no more revenue than is necessary to achieve the objectives of the statute on which the rule is based; (5) the rule does not conflict with federal and other state laws; (6) any overlap or duplication is necessary to achieve the objectives of the statute on which the rule is based; (7) differences from the federal law are necessary to achieve the objectives of the statute on which the rule is based; and (8) differences in applicability to private and public entities are necessary to achieve the objectives of the statute on which the rule is based.

For certain rules, agencies are required to adopt rule implementation plans to inform and educate affected persons, promote voluntary compliance, and evaluate whether the rule achieves its purpose. Agencies must coordinate with federal and other state agencies regarding implementation and enforcement of rules that regulate the same activity or subject matter; agencies shall make every effort to designate a lead agency, enter into a coordination agreement, or defer to the other governmental entity. Agencies are also required to report to JARRC and the small business assistance center regarding conflict, overlap and duplication.

To the extent practicable, rules should be clearly and simply stated.

Agencies are required to produce a written summary of all comments received on a proposed rule and substantive responses to those comments. These must be placed in the rule-making file, and provided to anyone upon request or from whom the agency received comment. The rule-making file must also contain citations to data and studies relied on in the rule-making process.

If an agency that is under the Governor's jurisdiction denies a petition to amend or repeal a rule, the petitioner may appeal that denial to the Governor within 30 days. Within 60 days of receipt, the Governor is required to either reject the appeal in writing, stating the reasons for

the rejection, or order the agency to commence rule-making proceedings. Upon request, the Governor's Office is required to provide copies of the Governor's ruling. A person need not appeal a denial of a petition to amend or repeal a rule to the Governor in order to obtain judicial review.

SMALL BUSINESS IMPACT: Agencies are required to prepare small business economic impact statements before filing notice of a proposed rule. "Industry" is redefined to include any business in a four-digit standard industrial classification, except where confidentiality requirements would be violated. Agencies are required to consider input on lost sales or revenue. A small business economic impact statement must include a description of the process for small business input into rule development, and a list of industries that will be required to comply with the rule.

To reduce the impact of rules on small businesses, agencies are authorized to use other mitigation techniques. New mitigation measures include reducing or modifying fine schedules for noncompliance. In the small business economic impact statement, agencies are required to either provide a statement of the steps taken to reduce small business costs, or provide reasonable justification for not doing so.

If a small business economic impact statement is not being prepared because the rule is required by federal law, a statement must be filed with the code reviser citing the federal law and describing the consequences of not adopting the rule. Explanations for not preparing statements must be published in the state register.

The business assistance center is required to develop agency guidelines for preparing small business economic impact statements, review and comment on statements, advise JARRC on whether the agency has reasonably assessed costs, and establish and chair a state rules coordinating committee to develop education and voluntary compliance programs.

TECHNICAL ASSISTANCE: Certain agencies are prohibited from issuing penalties against a business entity when that business entity has submitted a written request for technical assistance. The agency will instead issue a "statement of deficiency," and the business entity will be given a reasonable period of time to come into compliance with the law. The prohibition against issuing penalties does not apply: (1) if the business entity knowingly violated the law; (2) if the business entity has previously violated the same law; (3) to tax deficiencies greater than $1,000; (4) to interest due on taxes; (5) to violations that place a person in danger of death or bodily harm; (6) to violations that are likely to cause more than minor environmental harm; (7) to violations that are likely to cause property damage in excess of $1,000; and (8) to federally delegated programs, unless federal authorization is granted. The state is not liable for damages arising from the provision of, or failure to provide, technical assistance.

OTHER PROVISIONS: The Department of Community, Trade, and Economic Development is required to develop a model standardized format for reporting information commonly required from the public for permits, licenses, approvals, and services. The format, and recommendations for implementation, must be submitted to the Legislature by December 31, 1994.

The name of the Growth Planning Hearings Board is changed to the Growth Management Hearings Board.

Cities and counties are required to make every effort to avoid conflict, overlap, and duplication with state and federal regulations.

Votes on Final Passage:

House	64	29	
Senate	28	20	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	26	22	
House	62	34	

Effective: June 9, 1994
July 1, 1994 (Section 10)

Partial Veto Summary: The veto deletes a section that established a rebuttable presumption of rule invalidity when JARRC, by a two-thirds vote, recommends certain rule suspensions.

Sections are vetoed that required agencies to make determinations regarding proposed rules, adopt rule implementation plans, and coordinate with other state and federal agencies when adopting rules regulating the same subject matter or activity. The veto also deletes a gubernatorial appeal procedure regarding the denial of a petition to amend or repeal a rule.

The veto deletes a requirement that agencies file a statement with the code reviser when the agency is not preparing a small business economic impact statement due to the fact that the rule is required by federal law.

A section is vetoed that prohibited certain agencies from immediately issuing penalties against a business entity for certain violations when that entity has submitted a written request for technical assistance.

Sections are vetoed that required cities and counties to take steps to avoid conflict, overlap, and duplication with state and federal regulations.

VETO MESSAGE ON HB 2510-S2

April 1, 1994

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, 5, 6, 13, 16(2), 20, 23, 25, 34, and 35, Engrossed Second Substitute House Bill No. 2510 entitled:

"AN ACT Relating to the implementation of the recommendations of the governor's task force on regulatory reform;"

On August 9, 1993, I signed Executive Order 93-06. The Executive Order directed state agencies to initiate several efforts to

coordinate among themselves and to provide better and more useful information to the public. I stated three goals for regulatory reform in the Executive Order. They are:

To institute immediate management improvements in state regulatory functions, reducing inefficiencies, conflicts, and delays.

To develop long-term solutions to complex regulatory issues that, if left unresolved, could impede the orderly growth and sustained economic development of the state.

To ensure that any regulatory reform solutions designed to support economic benefits to the state also ensure continued protection of the environment, the health, and the safety of our citizens.

The Executive Order also created the Governor's Task Force on Regulatory Reform, composed of representatives from a cross-section of state citizens and interest groups. The Task Force established three subcommittees to address the major issue areas set forth in the Executive Order and made its interim recommendation in its December 17, 1993 report upon which this legislation is based. The Task Force will continue its work through December 31, 1994 and will submit final recommendations to the Governor by December 1, 1994.

As introduced, House Bill No. 2510 met the goals I established for regulatory reform. I would have been able to sign all but one section had it passed as it was introduced. However, as passed by the Legislature, there are sections of Engrossed Second Substitute House Bill No. 2510 which I do not believe meet the goals I set for regulatory reform. In addition, many of the provisions of the bill would only increase the delays, bureaucracy, and paperwork of the rulemaking process imposing significant burdens on state agencies without providing any additional meaningful involvement or reduced burden for the regulated community. This is directly counter to the goals of regulatory reform.

While I am disappointed that I am unable to sign this bill in its entirety, there are several provisions I will soon incorporate into an Executive Order. In particular, the Executive Order will direct agencies engaged in rulemaking to evaluate criteria similar to those set forth in section 4 as proposed by the Task Force. I will also be directing agencies to increase the level of technical assistance they provide to businesses and to individuals intent on meeting state regulations but who may be unclear on how to comply.

Of all the issues addressed in the bill, section 4 served as the flash point for debate over regulatory reform during the 1994 Legislative Session. The Task Force, with considerable public comment, concluded that the state agencies needed additional direction in the rulemaking process and recommended a series of criteria for the agencies to consider before adopting a rule. I fully support the concept that agencies consider these criteria in their rulemaking process. However, section 4 strays from the carefully balanced approach in the original bill. The bill provided the proper direction to agencies without creating additional, unnecessary paperwork and avoided turning rulemaking into a judicial like process which only encourages litigation. If this section is allowed to become law, the only certainty is that litigation will ensue over the meaning of its various provisions.

In addition, the specific criteria set forth in section 4 go well beyond the criteria proposed in the original bill. For example, this section requires an agency to determine that any overlap, duplication or difference between the rule and any federal law is necessary to achieve the objectives of the statute. There are many circumstances where differences from federal rules may be justified to protect the safety and quality of life in our state, yet these provisions would make it nearly impossible for an agency to adopt rules on a subject over which the federal government has adopted rules or passed legislation.

Section 4 also requires an agency to determine that the likely costs of a rule justify its likely benefits. While the original bill required agencies to consider the economic and environmental consequences of adopting a rule, the cost benefit analysis approach in section 4 goes beyond that requirement. This provision mandates a time consuming, expensive and controversial process. Although it is appropriate for agencies to consider the benefits and costs of their actions, many of the factors which should be considered, such as health, safety and environmental concerns, do not lend themselves to a formal cost-benefit determination.

Section 4 also requires agencies to determine that there are no reasonable alternatives proposed during the rule-making process which are less burdensome on those required to comply. This criteria creates the unacceptable assumption that impacts on the regulated community should be the only consideration for an agency when it adopts a rule. Agencies should also consider the cost to the taxpayers, to the environment and to the public's safety.

Section 4, in combination with section 5, was identified by state agencies as being particularly expensive to implement. The legislature did not appropriate funds in the supplemental budget to defray the added costs which this section would impose. For all of the above reasons, I am vetoing section 4.

Section 5 applies only to rules subject to the provisions of section 4. Therefore, I am also vetoing section 5.

Section 6 amends an existing statute which allows a person to petition an agency to adopt, amend, or repeal a rule, by allowing an appeal of an agency's decision to the governor. Section 6 directs the petitioner to address several specific factors which the agencies are not required to consider when they engage in rule-making. By including these as elements of the petition, the implication is made that they are also standards for rule adoption when in fact they are not. For this reason, I am vetoing section 6.

Section 13 is a new section which incorporates part of the requirements currently included in RCW 19.85.060. Section 13 states that an agency is not required to prepare a small business economic impact statement if the rule is adopted in order to comply with federal law. RCW 19.85.060, which section 13 replaces, provides that an agency is not required to prepare the statement if the rule is adopted to comply with federal law or regulation. While this may have been an inadvertent action by the legislature, deletion of these words increases the circumstances under which agencies will need to prepare an impact statement even though the rule is required by the federal government. For this reason, I am vetoing section 13.

Section 16(2) repeals RCW 19.85.060, which contains the exemption addressed in section 13. Because I am vetoing section 13, I am also vetoing section 16(2).

Section 20 gives the Joint Administrative Rules Review Committee (JARRC) the ability to establish a rebuttable presumption in judicial proceedings that a rule does not comply with the legislature's intent. The Task Force included this recommendation in its report. It has been my wish to sign into law those recommendations in this bill which accurately reflect the recommendations of the Task Force. However, I have serious concerns about the constitutionality of this provision under the separation of powers doctrine. A committee of the legislature cannot be given authority to invalidate a rule. See, Immigration & Naturalization Service v. Chadha, 462 U.S. 919 (1983). Allowing a committee of the legislature to affect the legal status of an agency rule adopted in compliance with all statutory procedures is an unwarranted intrusion into the role of the executive branch.

Through section 19 of the bill the legislature's authority, to object to rules is enhanced by lowering the threshold vote necessary for JARRC to recommend suspension of a rule. In addition, if the governor does not suspend the rule, section 19 provides that JARRC's recommendation is treated by the agency as a petition to repeal the rule. JARRC also may recommend to the full Legislature corrective legislation if it is dissatisfied with the agency's response to its objections. These are appropriate means to increase the authority of JARRC. For these reasons, I am vetoing section 20.

Section 23 addresses the issue of technical assistance and its relationship to enforcement. The original bill included a provision requiring agencies to provide technical assistance as an alternative to traditional enforcement approaches. This provision was based on successful programs in the Department of Ecology and the Department of Labor and Industries. Many other agencies have also developed similar approaches to enforcement. Section

23 goes beyond this positive approach to technical assistance by allowing a business which requests assistance from a selected set of state agencies to avoid penalties for violation of any rules administered by the agency unless the business has previously violated the same rule or does so knowingly. While I support increased technical assistance from agencies and will include this in my Executive Order, I cannot support the idea that ignorance is an excuse to violate state rules. This provision will be more likely to further the confrontational approach many businesses have complained about instead of fostering cooperation between business and state regulators.

There is also a serious question about the constitutionality of this provision since it applies only to business entities. Article 1, section 12 of the Washington Constitution prohibits the granting of privileges and immunities to corporations that are not available to all others. Many individual citizens, as well as cities and counties, are required to comply with the same statutes and rules as businesses. They are not afforded the same favorable treatment this section would provide to business. For these reasons, I am vetoing section 23.

Section 25 modifies the requirements of the Administrative Procedure Act relating to the exhaustion of administrative remedies. A reference to the appeal provided for in section 6 is added. Since I have vetoed section 6, this section is also vetoed.

Sections 34 and 35 were added to Engrossed Second Substitute House Bill No. 2510 by the Conference Committee and received no discussion or debate prior to that time. They require city and county governments to expend considerable resources to coordinate their regulatory activities with the state and federal governments. As with so many sections of this bill, the goals of these two sections are sound. However, the requirements imposed by these two sections will only burden cities and counties without any benefit of the topic of coordinating local and state permitting and regulatory decisions is under active consideration by the Task Force. It is premature to enact these sections at this time. I am therefore vetoing sections 34 and 35.

With the exception of sections 4, 5, 6, 13, 16(2), 20, 23, 25, 34, and 35, Engrossed Second Substitute House Bill No. 2510 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

HB 2511

C 231 L 94

Petitioning for involuntary treatment.

By Representatives Leonard, Cooke, Thibaudeau, King and Ogden; by request of Department of Social and Health Services.

House Committee on Human Services
Senate Committee on Health & Human Services

Background: State law provides under certain circumstances for the involuntary commitment of persons who are incapacitated by alcohol or other psychoactive chemicals and who have impaired judgment with respect to the need for treatment. Such a person may be committed if he or she "constitutes a danger" to self, to others or to property.

Summary: For the purpose of involuntary commitment, the risk of dangerousness presented by an impaired person is clarified. A person incapacitated by alcohol or other psychoactive chemicals is subject to involuntary treatment if he or she presents a "likelihood of serious harm" to himself or herself, to any other person or to property. "Likelihood of serious harm" is defined as a substantial risk of physical harm as evidenced by threats or attempts, or by behavior that puts another in reasonable fear, or by behavior that has caused substantial damage.

At least two-thirds of the members of the citizens advisory council must be former recipients of alcohol or drug addiction services who have been in recovery for at least two years. Department rules and policies on treatment must be done in collaboration with departmental staff, local government and treatment providers.

Votes on Final Passage:

House	93	0	
Senate	49	0	(Senate amended)
House	89	0	(House concurred)

Effective: April 1, 1994

HB 2512

C 169 L 94

Expanding eligibility criteria for funds for sexually aggressive youth.

By Representatives Leonard, Cooke, Thibaudeau, Karahalios, Sheldon, J. Kohl and King; by request of Department of Social and Health Services.

House Committee on Human Services
Senate Committee on Health & Human Services

Background: Treatment services for youth who commit sexually aggressive acts are limited to youth meeting the statutory definition of "sexually aggressive youth." Currently, a youth who is in the care and custody of a federally-recognized Native American tribe or who is the subject of a child welfare proceeding before a tribal court is not included in this definition.

Summary: The definition of "sexually aggressive youth" is expanded to include a youth in the care and custody of federally-recognized Native American tribes or who is the subject of a child welfare proceeding before a tribal court.

The Department of Social and Health Services may provide funds to treat sexually aggressive youth in the care and custody of a tribe or through a tribal court if the tribe uses the same definitions to determine who is a sexually aggressive youth and the department attempts to recover federal funds available to treat youth.

Votes on Final Passage:

House	94	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994

SHB 2516

C 263 L 94

Limiting the liability for damage resulting from wildlife-induced fence destruction.

By House Committee on Agriculture & Rural Development (originally sponsored by Representatives Jones, King and Rayburn).

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: In an open range area, generally, a livestock owner is liable for the damages caused by the livestock's "trespassing" on the fenced property of another. In a stock-restricted area, generally, the livestock owner is responsible for fencing the livestock and if the owner fails to carry out this responsibility, then he or she is liable for the damages caused by the livestock's "trespassing" on another's property.

A person sustaining property damages by "trespassing" livestock may "restrain" (take possession of) the livestock as security for the owner's payment of damages and costs.

Summary: Generally, a livestock owner is no longer liable for "trespass" damages caused by the livestock if the owner can prove that the "trespass" is due to the owner's lawful fence being damaged by wildlife. In a stock-restricted area, this rule does not apply if the livestock owner had reasonable opportunity to repair the fence before the livestock escaped.

In livestock "trespass" cases where the livestock owner is not liable for damages under the new rule, the state is liable for the costs of transportation, advertising, legal proceedings, and keep of any "restrained" livestock.

Votes on Final Passage:

House	94	0
Senate	46	1

Effective: June 9, 1994

ESHB 2521

C 232 L 94

Regulating metals mining and milling operations.

By House Committee on Appropriations (originally sponsored by Representatives Dunshee, Pruitt, J. Kohl, Valle, Wolfe, L. Johnson, Ogden, Romero, Rust, Linville and Patterson).

House Committee on Natural Resources & Parks
House Committee on Appropriations
Senate Committee on Natural Resources
Senate Committee on Ways & Means

Background: Metals mining and milling operations are regulated under a number of different federal, state, and local government laws and rules. Last session, the Legislature created a Metals Mining Advisory Group to review the existing regulatory framework.

Summary: A comprehensive new state regulatory law is adopted concerning metals mining and milling operations.

Application of New Act. Metals mining and milling operations are subject to the requirements established by this act, in addition to requirements established in other statutes and rules. An expansion of an existing operation or any new metals mining operation is subject to the new requirements if the expansion or new operation is likely to result in a significant, adverse environmental impact under the State Environmental Policy Act. (SEPA) Separate metals milling operations are also subject to many of the provisions established in the new act.

Disclosure. An applicant submitting a SEPA checklist for a metals mining and milling operation must disclose the ownership and each controlling interest in the proposed operation. The applicant must also disclose all other mining operations within the United States which the applicant operates or in which the applicant has ownership or controlling interest. In addition, the applicant must disclose and may describe the circumstances of past or present bankruptcies, abandonment of superfund or similar sites, penalties in excess of $10,000 assessed for violations of the Federal Clean Air or Clean Water acts, and any previous forfeitures of financial assurance due to noncompliance with reclamation or remediation requirements.

State Environmental Policy Act. An environmental impact statement is required for any proposed metals mining and milling operation. The Department of Ecology is designated as the lead agency for the SEPA review. The SEPA review must include the collection of baseline data adequate to document pre-mining conditions at the proposed site of the operation. The Department of Ecology is to incorporate measures to mitigate significant probable adverse impacts to fish and wildlife into the department's permit requirements for the proposed operation. In conducting the SEPA review, the department will also cooperate with affected local governments to the fullest extent practicable.

Metals Mining Coordinator. The Department of Ecology is directed to appoint a metals mining coordinator. The coordinator will maintain current information on metals mining and milling operations and will act as a contact person for the industry and for the public. This provision takes effect July 1, 1995.

Inspections. State agencies with the responsibility for inspecting metals mining and milling operations shall conduct these inspections at least quarterly. The Legislature encourages these state agencies to explore opportunities for cross-training of inspectors and to look at efficient and cost-effective ways to coordinate inspections with each other and with federal and local government agencies. This provision takes effect July 1, 1995.

Metals Mining Account. The metals mining account is created in the state treasury. Expenditures from this account are subject to appropriation and may only be used for the additional inspections by state agencies described above and for the metals mining coordinator. The Department of Revenue is directed to assess a fee to be paid by each active and proposed metals mining and milling operation in order to generate revenue sufficient to cover these two categories of expenses. The provision creating the new account and establishing fees takes effect July 1, 1995, unless the Legislature adopts an alternative approach based on the recommendations of the advisory group created in the act.

Siting of Tailings Facilities. The Department of Ecology is to consider site-specific criteria in determining a preferred location for the tailings facility associated with a metals mining and milling operation. A two-phase evaluation process is created to address the siting of tailings facilities, consisting of a primary screening phase and a secondary technical site investigation phase.

Waste Discharge Permit Requirements. In order to receive a waste discharge permit from the Department of Ecology or in order to operate a tailings facility, a metals mining and milling operation must meet four additional requirements. First, there are specific requirements for the design and operation of the tailings facility. Second, the applicant must have an approved plan for management of the waste rock generated by the operation. Third, the operator or applicant must work with the Department of Ecology to make arrangements for citizen observation and verification of the taking of water samples, if an interested citizen or citizen group so requests. Fourth, the applicant or operator must complete a plan for voluntary waste reduction.

Performance Security. The Department of Ecology and the Department of Natural Resources may not issue the necessary permits to an applicant for a metals mining and milling operation until the applicant has deposited with the Department of Ecology a performance security which is acceptable to both agencies. The performance security is conditioned on the applicant or operator meeting the following obligations: (1) satisfactory compliance with the laws of the state pertaining to these operations as well as related rules and permit conditions; (2) postclosure environmental monitoring; and (3) provision of sufficient funding for cleanup of potential problems revealed during or after closure.

Economic Impact Analysis. An applicant for a large-scale metals mining and milling operation must submit to the relevant county legislative authority an impact analysis describing the economic impact of the proposed mining operation on local government units. An operation is "large-scale" if it employs more than 35 persons during any consecutive six-month period. Counties may assess impact fees pursuant to chapter 82.02 RCW. If the applicant does not submit an adequate impact analysis or if the county does not find an applicant's proposals for mitigating any adverse economic impacts to be acceptable, the county will refuse to issue permits under its jurisdiction necessary for the construction or operation of the mine and mill.

Citizen Suits. An aggrieved person may commence a civil action against (1) any person who is alleged to be in violation of a law, rule, order or permit pertaining to metals mining and milling operations; (2) a state agency if there is alleged a failure of the agency to perform any nondiscretionary act or duty pertaining to these operations; or (3) any person who constructs one of these operations without the permits and authorizations required by state law.

Heap Leach/In Situ Extraction. Restrictions are placed on using chemical solutions to extract metal ore from its natural setting, or from a heap not contained in a vat or tank.

Until June 30, 1996, there is a moratorium on metals mining and milling operations using the heap leach extraction process. By December, 1994, the Department of Natural Resources and the Department of Ecology shall jointly review existing laws and regulations pertaining to the heap leach extraction process for their adequacy in safeguarding the environment and shall report their findings to the Legislature. In situ extraction is permanently prohibited in Washington.

Regulatory Overlap. The Department of Ecology is directed to work with the mining industry and with relevant federal, state and local government agencies to identify areas of regulatory overlap among regulators of metals mining and milling operations. The department is also to identify possible solutions to overlap problems and to report to the Legislature on its findings by January 1, 1995.

Metals Mining Advisory Group. The Department of Ecology is also to establish a metals mining advisory group, to focus on the following four tasks: (1) a review of the adequacy of the methods used by state agencies in identifying the costs associated with the additional inspection requirements of metals mining and milling operations; (2) development of measures to evaluate the performance of the metals mining coordinator; (3) examination of possible new inspection requirements for the Department of Fish and Wildlife; and (4) identification and evaluation of the alternatives for distributing new costs associated with this act among existing and proposed metals mining and milling operations. This group is also to report to the Legislature by January 1, 1995.

Votes on Final Passage:

House	96	0	
Senate	39	10	(Senate amended)
House	94	0	(House concurred)

Effective: April 1, 1994
July 1, 1995 (Sections 6 - 8 and 18 - 22)

EHB 2523

C 128 L 94

Regulating custom slaughtering and custom meat facility licenses.

By Representatives Rayburn, Schoesler, Chappell, Chandler, Foreman, Hansen, R. Meyers and Mastin; by request of Department of Agriculture.

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: A person engaged in the business of slaughtering animals for the owner of the animals, referred to as "custom slaughtering," or in preparing uninspected meat, referred to as "custom meat," for the consumption of the owner of the meat must be licensed by the Department of Agriculture. A violation of the laws governing such custom slaughtering and custom meats is a gross misdemeanor. The director of the Department of Agriculture may suspend or revoke a license under certain circumstances.

The preparation and sale of poultry products are regulated by the Department of Agriculture under the Wholesome Poultry Products Act. A person who violates a provision of the act or rules adopted under the act is guilty of a misdemeanor. If a person commits a second violation within five years of being convicted of violating the act, the person is guilty of a gross misdemeanor.

Summary: In addition to being able to suspend or revoke a custom slaughtering and custom meats license, the director of the Department of Agriculture may also establish conditions of probation for a designated period of time. A new civil penalty of not more than $1,000 per day of violation is established for violations of the laws governing custom slaughtering and custom meats. A new civil penalty of not more than $1,000 per day of violation is also established for violations of the Wholesome Poultry Products Act. All violations, not just repeated violations within five years, are gross misdemeanors under the Poultry Products Act.

Both a civil penalty and a criminal penalty may not be imposed for the same violation.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 9, 1994

SHB 2526

C 94 L 94

Including chiropractic care in health services available under industrial insurance.

By House Committee on Commerce & Labor (originally sponsored by Representatives Heavey, Chandler, Anderson, Wineberry, Campbell, Casada, Chappell, Morris, Kessler, Dorn, King, Carlson, Conway, G. Cole, R. Meyers, Hansen, Pruitt, Bray, J. Kohl, Jones, Leonard, Holm, Moak, Eide, Roland, Scott, Grant, Quall, Kremen, Schoesler, Talcott and Springer).

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

Background: Under the industrial insurance law, an injured worker is entitled to proper and necessary medical care from a physician of the worker's choice. The Department of Labor and Industries is charged with supervising the provision of this medical care.

In 1993, legislation was enacted that included chiropractic care within the department's supervisory and audit authority. The legislation also authorizes chiropractors to conduct special medical examinations for determining permanent disabilities in consultation with physicians. The Governor vetoed provisions specifying that chiropractic services are available to injured workers in appropriate cases and that workers could be required to undergo chiropractic examinations in certain circumstances.

Summary: The health services that are available to an injured worker include chiropractic care and evaluation, subject to the requirements of the industrial insurance law.

Injured workers may be required by the Department of Labor and Industries to undergo chiropractic examination to assist the department in analyzing claims.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 9, 1994

SHB 2529

C 170 L 94

Providing that persons and entities involved in adoption processes shall incur no liability.

By House Committee on Judiciary (originally sponsored by Representatives Karahalios, Veloria and Mielke).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Health & Human Services

Background: Prospective adoptive parents are entitled to receive a complete medical report about the child that the parents may adopt. The medical report must contain all

available information concerning the child's mental, physical and sensory handicaps. The report must not identify the natural parents but must contain information about the natural parents' mental or physical health history that is necessary to help the adoptive parents determine proper health care for the child. Prospective adoptive parents are also entitled to a report concerning the child's family background and social history report, which includes a chronological history of the circumstances surrounding the adoption. Every person, firm, society, association or corporation which receives, secures a home for, or otherwise cares for the child who is going to be adopted must provide the information to the prospective adoptive parents.

Summary: State agencies are expressly added to the list of persons and entities which must provide information about a child to prospective adoptive parents. Entities furnishing information have an obligation to provide information that is known and available. Entities with a responsibility to furnish information must make reasonable efforts to locate records and pertinent information. The entities do not have any obligation to interpret records for prospective adoptive parents.

The Department of Social and Health Services must adopt rules establishing minimum standards for making reasonable efforts to locate records and pertinent information.

Votes on Final Passage:

House	96	0	
Senate	46	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 9, 1994

SHB 2540

C 129 L 94

Releasing information concerning sex offenders.

By House Committee on Corrections (originally sponsored by Representatives Long, Appelwick, Morris, Johanson, Padden, Brough, Sheahan, B. Thomas, Dyer, Brumsickle, Kremen, Forner, Springer and Reams).

House Committee on Corrections
Senate Committee on Law & Justice

Background: Public agencies are authorized to release sex offender information when necessary for public protection.

At times, local law enforcement agencies have informed the public regarding the pending release of sex offenders. A concern exists that the public has not received this information in a timely fashion.

Local law enforcement agencies receive sex offender information from the Department of Corrections and the Department of Social and Health Services. The Department of Corrections is required to inform local law enforcement with regard to adult sex offenders being held in prison. The Department of Social and Health Services is required to inform local law enforcement with regard to juvenile sex offenders held by the Division of Juvenile Rehabilitation and with regard to adults committed for mental illness after either: (1) being acquitted of sex offenses by reason of insanity; or (2) being found incompetent to stand trial for a sex offense.

Current law sets out differing deadlines under which notification of the pending release of a sex offender must be given to local law enforcement officials by the Department of Corrections or the Department of Social and Health Services. The amount of advance notice that must be given varies depending on the type of release. Some deadlines are 48 hours, some are 10 days, and some are 30 days.

Summary: When a local law enforcement agency chooses to notify the public of an impending release of a sex offender, the agency must make a good faith attempt to provide the notice at least 14 days prior to the release. The bill addresses only the timing of the public notification; it does not require the public to be notified in any particular case.

In order for this 14 days' advance notice to be feasible, the various deadlines under which the Department of Corrections and the Department of Social and Health Services must report a pending release to local law enforcement officials are likewise altered. The bill converts to 30-day deadlines what were previously 48-hour deadlines or 10-day deadlines. The bill converts to 45-day deadlines what were previously 30-day deadlines. The deadlines do not apply to emergency furloughs.

If release plans change for any particular offender, the existence of the notification deadlines does not require the release to be delayed.

Votes on Final Passage:

House	94	0
Senate	44	0

Effective: June 9, 1994

SHB 2541

C 22 L 94

Clarifying the tax on newspapers, periodicals and magazines.

By House Committee on Revenue (originally sponsored by Representatives Cothern, Brown, Foreman, Romero, Brough, J. Kohl, Van Luven, Rust and Talcott; by request of Department of Revenue).

House Committee on Revenue
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 received by a business. Although

there are several different B&O tax rates, the rates for most businesses range from 0.471 percent to 2.5 percent.

Newspaper publishers pay B&O tax at a rate of 0.515 percent of gross income. Publishers of periodicals other than newspapers pay B&O tax at a rate of 2.13 percent of gross income.

Before July 1993, the tax statutes did not define "newspaper." Rules of the Department of Revenue required, among other things, that newspapers be issued regularly at stated intervals of at least once every two weeks, be formed of printed paper sheets without substantial binding and be of general interest, containing information of current events. A series of U.S. Supreme Court decisions suggested that content-based distinctions for tax purposes are probably unconstitutional.

In 1993, the Legislature enacted a statutory definition of newspapers for tax purposes. The new definition requires that newspapers be issued regularly at stated intervals at least once per week. The definition also requires newspapers to be printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind. The definition does not refer to the content of the publication. As a result of these changes, the B&O tax rate for some publishers increased from 0.515 percent to 2.13 percent.

Summary: The bill changes the frequency of publication requirement in the excise tax definition of "newspaper." Newspapers must be published at least twice per month, rather than once per week. As a result, more publishers will be eligible for a lower B&O tax rate.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: June 9, 1994

EHB 2555

C 250 L 94

Modifying licensing and inspection of transient accommodations.

By Representative Heavey; by request of Department of Health.

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Health & Human Services

Background: "Transient accommodations" which include hotels, motels, resorts, youth hostels and shelters are licensed by the Department of Health. Licenses may be issued anytime during the year; however, all licenses expire on January 1. License renewal applications must be made no later than 30 days before the license expires. An annual fee is assessed to cover the application process.

Before a license may be issued or renewed, buildings being used as transient accommodations must be inspected by the Department of Health. A fee is charged for each inspection. The director of the Department of Community Development, through the director of fire protection, establishes and enforces fire and life safety rules and regulations for transient accommodations.

Transient accommodation licenses may be suspended or revoked when the person operating a transient accommodation fails or refuses to comply with rules established by the Department of Health.

Summary: Technical revisions are made replacing references to "hotels and motels" licensing with "transient accommodation" licensing.

The number of facilities inspected each year is reduced from all facilities to at least 10 percent of the facilities. Each new facility will be inspected. The Department of Health will develop and use survey methods which will encourage persons operating transient accommodations to self-inspect and comply with the licensing rules. The reduction in inspections and the provision requiring the department to develop and use survey methods will apply only until June 1997, pending a favorable report from the department by December 1, 1996, and reenactment of legislation continuing these practices.

The annual license period is the period from the date of issuance rather than from January 1 to December 31. To receive an initial license, the licensee must file an application with the department at least 60 days before the business opens. To renew a license, the licensee must file an application with the department at least 30 days before the license expires.

The department is to establish a single fee to cover the cost of licensure and enforcement activities.

The department is authorized to impose civil fines in lieu of or in addition to revocation or suspension of a license.

The director of the Department of Community, Trade, and Economic Development continues to have the power to establish fire and safety rules for transient accommodations, but these rules will be enforced by local fire authorities.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994

HB 2558

C 251 L 94

Changing provisions relating to regulation of securities issued by regulated utilities and transportation companies.

By Representative Zellinsky; by request of Utilities & Transportation Commission.

House Committee on Financial Institutions & Insurance
Senate Committee on Energy & Utilities

Background: The Washington Utilities and Transportation Commission (UTC) regulates the provision of transportation and utility services by companies to the general public for compensation. Utility or transportation companies may issue stocks, bonds, or other securities if the UTC approves the issuance. The company must apply to the UTC for approval to issue securities; the company may appeal a negative decision by the UTC. There are statutory requirements and limits on the issuance of securities by transportation or utilities companies.

Summary: A company that provides transportation or utility services to the public must file a notice with the Utilities and Transportation Commission prior to issuing securities, but approval of the UTC is not required for the issuance. The issuance of securities must comply with existing statutory requirements and limitations. A company may request that the UTC issue a written order that the company's securities issuance meets statutory requirements.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	94	0	(House Concurred)

Effective: June 9, 1994

SHB 2560

C 130 L 94

Changing college work-study program provisions.

By House Committee on Higher Education (originally sponsored by Representatives Kessler, Brumsickle, Jones, Flemming, Quall, Jacobsen, Orr, Mastin, Rayburn, Ogden, Wood, Sheahan, Basich, Carlson, Shin, Bray, Mielke, Dunshee, Brough, Pruitt, J. Kohl, Karahalios, Schoesler, Talcott, Forner and Tate).

House Committee on Higher Education
Senate Committee on Higher Education

Background: The college work-study program was created in 1974. It is the state's second largest financial aid program, with an appropriation of $24.2 million per biennium. Washington's work-study program is the largest state work-study program in the country. During the 1993-94 academic year, the program is serving about 7,700 students. Because funding for the program has not increased from the 1991-93 biennium, but wages and educational costs have, the program is serving fewer students this year than last year.

Through the program, needy students may work up to 19 hours per week, on average, in jobs related to their academic study. Their rate of pay must be comparable to the entry rate of similar jobs. Work-study students cannot displace employed workers, nor may their employment impair existing contracts for services.

Students at public institutions may work either on- or off-campus. With very limited exceptions, students at private institutions must work off-campus. Ninety-nine percent of students at private institutions work off-campus. That percentage falls to 37 percent at public four-year institutions and 20 percent at community and technical colleges.

If a student works at a public institution or public school, the program pays 80 percent of the student's wages. The employer must pay the other 20 percent. Some community colleges are using tuition money contributed by students to the institution's financial aid fund to pay that 20 percent. If a student works for a for-profit employer, the program will pay 65 percent of the student's wages. The employer must contribute the other 35 percent. If a student works for a community service employer, the program may pay the entire amount of the student's wages.

During the 1991-92 academic year, students attending public institutions comprised 63 percent of the participants in the state work-study program. Within the public sector, community and technical college students comprised 34 percent of the participants, and students attending baccalaureate institutions comprised the remaining 29 percent. Students at private institutions comprised 37 percent of the participants, but received 43 percent of the funding, due to the higher educational costs associated with tuition in those institutions. Sixty-two percent of the participants were women and 87 percent were resident students.

Summary: The college work-study program is renamed the state work-study program. The purpose of the program is revised to extend assistance to needy students from middle income families and to provide employment related to either the student's academic or vocational pursuits.

An advisory committee is created for the state work-study program. The committee may include representatives of students, public and private institutions of higher education, community service organizations, public schools, business, labor, and others. The committee will assist the Higher Education Coordinating Board with the development and administration of the program. When selecting members of the advisory committee, the board will consult a broad array of institutions and organizations.

The board is directed to adopt new rules for the work-study program. The rules will emphasize two new program priorities. These include: placing a priority on job placements in fields related to each student's academic or voca-

tional pursuits; and providing off-campus community service placements. Off-campus job placements will be emphasized whenever appropriate. The board will also adopt rules encouraging job placements in occupations that meet Washington's economic development goals, especially those in international trade and international relations. These rules will permit appropriate job placements in other states and abroad.

Finally, current rules will be modified to permit some students to be placed in jobs above the entry level of classified service. In addition, some technical changes are adopted to rename accrediting organizations and technical colleges.

Votes on Final Passage:

House 96 0
Senate 48 0

Effective: June 9, 1994

EHB 2561

C 23 L 94

Modifying regulations for controlled atmosphere storage of fruit.

By Representatives Rayburn and Roland.

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: To be classified as having been stored in controlled atmosphere storage, fruits or vegetables must be stored under conditions which satisfy standards set by the director of the Department of Agriculture for the oxygen content of the sealed atmosphere, temperature, and duration of exposure to such atmosphere and temperature. For apples, certain of these standards are set by statute.

Summary: Gala and Jonagold apples must be stored in a controlled atmosphere for not less than 45 days, rather than not less than 90 days, to be classified as having been stored in a controlled atmosphere.

Votes on Final Passage:

House 91 0
Senate 48 0

Effective: June 9, 1994

HB 2562

C 24 L 94

Foreclosing liens on delinquent assessments.

By Representative Rayburn.

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: State laws governing foreclosure proceedings for delinquent irrigation district assessments require that a title to property secured in such a foreclosure sale be, in general, free of encumbrances other than the following encumbrances that become due after the time of the foreclosure sale: property taxes, drainage or diking district or improvement district assessments, and irrigation district assessments.

Summary: Mosquito district assessments are added to the list of taxes and assessments which encumber property sold through a district's foreclosure sale.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: June 9, 1994

SHB 2566

C 25 L 94

Providing limited immunity from liability for organizations distributing donated items to children.

By House Committee on Judiciary (originally sponsored by Representatives Dyer, Lisk, B. Thomas, Brough, Brumsickle, Talcott, Long, Mielke, Cooke and Wood).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: At one time under the common law, an exception to the ordinary rules of tort liability existed for acts of charity. That is, if a person's negligent act of charity caused injury to another, the injured party generally could not recover damages. One rationale for the doctrine was the desire to encourage charitable giving. However, in 1964, the state Supreme Court abolished this doctrine of "charitable immunity."

Summary: Immunity from liability for ordinary negligence is provided for donors and distributing organizations that supply "children's items" to needy persons free of charge. The immunity extends to injuries resulting from the "nature, age, condition, or packaging" of an item. Immunity does not extend to acts of gross negligence or to intentional misconduct.

Children's items include, but are not limited to, clothes, diapers, food, baby formula, cribs, playpens, car seat restraints, toys, high chairs, and books.

Votes on Final Passage:

House 96 0
Senate 45 2

Effective: June 9, 1994

SHB 2570

C 131 L 94

Changing insurance licensing requirements.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, L. Thomas, R. Meyers and Dorn; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor & Commerce

Background: Fraternal benefit societies are regulated by the Insurance Commissioner. A fraternal benefit society is a non-profit organization which provides benefits, including insurance, to its members. Currently, a fraternal benefit society's license expires annually each April 1.

The Insurance Commissioner licenses insurance agents, brokers, solicitors, and other persons engaged in the business of insurance. These licenses are for a period of time established by the commissioner; generally, they are valid until revoked. License fees are paid annually. Appointments of agents by insurance companies must be renewed annually. Surplus line brokers' licenses must be renewed annually.

Summary: The license of a fraternal benefit society continues in force unless revoked by the insurance commissioner; the license fee must be paid annually by July 1.

The license fees for agents, brokers, and others are paid every two years, rather than annually. Surplus line brokers' licenses are valid for a period of time established by the commissioner, rather than one year by statute.

Appointments of agents by insurance companies are valid for an unspecified period of time, rather than one year. The fee is paid on the renewal date established by the commissioner, rather than annually.

Some reporting requirements to the commissioner are removed or modified.

Votes on Final Passage:

House	96	0
Senate	44	3

Effective: June 9, 1994

SHB 2571

C 171 L 94

Requiring certain capital and surplus for insurers.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, Schmidt, R. Meyers and Dorn; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor & Commerce

Background: A foreign, alien or domestic insurance company must meet capital and surplus requirements that exist when the company is originally formed, and it must continue to meet specified statutory requirements. The most recent change to statutory capital and surplus requirements, which occurred in 1991, doubled previous requirements. Existing companies were "grandfathered" into the previous requirements as follows: (1) if formed prior to July 1, 1991, the company must meet the requirements existing prior to that date; or (2) if formed on or after July 1, 1991, the company must meet updated requirements that took effect July 1, 1991.

Summary: Additional surplus required when an insurance company is formed must be maintained thereafter, rather than only at the time of formation.

All insurance companies formed on or after the effective date of this act (new companies) must meet capital and surplus requirements described in this act. Foreign and alien insurance companies existing immediately prior to the effective date of this act (existing companies) can continue to operate under previous requirements (existing immediately prior to the effective date of this act) until December 31, 1996, when all existing foreign and alien insurance companies must meet capital and surplus requirements described in this act. As of December 31, 1996, "grandfathering" for changes to capital and surplus requirements, including additional surplus, is eliminated for foreign and alien insurance companies. Existing domestic insurance companies are "grandfathered" into previous requirements; that is, these companies must comply with capital and surplus requirements as they existed for these companies immediately prior to the effective date of this act. Existing domestic insurance companies are not required to comply with the additional surplus requirements established in this act, and applicable "grandfathering" for previous capital and surplus changes continues for existing domestic companies.

Votes on Final Passage:

House	96	0
Senate	44	1

Effective: June 9, 1994

SHB 2582

C 95 L 94

Affecting leasehold excise taxes.

By House Committee on Revenue (originally sponsored by Representatives Sheldon and Holm).

House Committee on Revenue
Senate Committee on Ways & Means

Background: The leasehold excise tax is imposed on property used for private purposes that is also exempt from property taxation because the property is publicly owned.

The tax is collected by public entities that lease property to private parties. The tax rate of 12.84 percent is imposed on the amount paid in rent for the public property.

If the rent for public property is not established through competitive bidding or if the lease has been in effect for more than 10 years without renegotiation, the Department of Revenue may establish a "market value" rent. When establishing a market value rent, the Department of Revenue often bases the rent on an appraisal of the property by the county assessor.

For property tax purposes, property is assessed at its true and fair market value, unless the property qualifies under a special tax relief program. Some senior citizens and persons retired due to disability are entitled to property tax relief on their principal residences. To qualify, a person must be 61 in the year of application or retired from employment because of a physical disability. The person must also own his or her principal residence and have disposable income below a certain level. Eligible persons with incomes less than $26,000 receive partial tax exemptions.

The leasehold excise tax does not provide for tax relief equivalent to the senior citizen and disabled persons property tax relief program.

Summary: Appeal rights are clarified for lessees and sublessees of public property if the Department of Revenue establishes a market value rent for the leasehold excise tax. A lessee or sublessee, in the case where the sublessee is responsible for paying the leasehold excise tax, may appeal the property appraisal to the county board of equalization if the county assessor provided the appraisal to the Department of Revenue. An appeal may also be made directly to the Department of Revenue.

Lessees and sublessees meeting the qualifications of the senior citizen and disabled persons property tax relief program are given the same percentage relief from the leasehold tax as that given to homeowners in the senior citizen and disabled persons property tax relief program.

Votes on Final Passage:

House	91	0	
Senate	49	0	

Effective: March 23, 1994

HB 2583

C 233 L 94

Concerning documents that are exempt from public inspection.

By Representatives Veloria, Reams, Anderson, J. Kohl, Wood and Campbell.

House Committee on State Government
Senate Committee on Law & Justice

Background: Under the Public Disclosure Act (PDA), client records maintained by domestic violence programs are exempt from public disclosure to the extent that disclosure would violate personal privacy or vital governmental interests. Additionally, these client records are only subject to discovery in judicial proceedings by court order. However, the definition of "domestic violence program" is limited to those agencies that provide shelter, advocacy and counseling for domestic violence victims. Many local programs provide some, but not all, of these services. Specifically, many local programs do not provide shelter, and thus their client records are subject to discovery and public disclosure.

The PDA does not provide a clear exemption for a governmental agency's investigation into possible misconduct by one of its employees. For instance, in sexual harassment cases, both the accused and the accuser could obtain access to the investigatory file while the investigation is being conducted. Current law does exempt from disclosure pending investigations conducted by law enforcement agencies and civil rights agencies.

Summary: Client records maintained by domestic violence programs that provide shelter, advocacy, or counseling are subject to discovery only by court order and are exempt from disclosure under the Public Disclosure Act to the extent that disclosure would violate personal privacy or vital governmental interests.

Investigative records compiled by an employing agency conducting a current investigation of a violation of the law against discrimination or other federal, state or local laws prohibiting employment discrimination are exempt from disclosure to the extent that disclosure would violate personal privacy or vital governmental interests.

Votes on Final Passage:

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

Effective: July 1, 1994

HB 2590

PARTIAL VETO

C 264 L 94

Eliminating obsolete references to the department of fisheries and the department of wildlife.

By Representatives King, Quall, Jones and Springer; by request of Statute Law Committee.

House Committee on Fisheries & Wildlife
Senate Committee on Natural Resources

Background: In 1993, the Legislature merged the departments of Fisheries and Wildlife into the Department of Fish and Wildlife. The Legislature also merged the departments of Trade and Economic Development and Community Development into the Department of Community, Trade and Economic Development. These mergers take

effect March 1, 1994. There are numerous references to these agencies in statute which do not reflect the new agency names.

Summary: All references to either the Department of Fisheries or the Department of Wildlife are changed to the Department of Fish and Wildlife. References to the Department of Community Development and the Department of Trade and Economic Development are changed to the Department of Community, Trade and Economic Development. Gender neutral language is substituted for existing language where applicable, and other minor technical corrections are made.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: June 9, 1994

Partial Veto Summary: Sections that would have created double amendments are deleted. The effective date is changed from July 1, 1994 to 90 days after the session in which the bill is passed.

VETO MESSAGE ON HB 2590

April 1, 1994

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 7, 16, 58, 59, and 100, House Bill No. 2590, entitled:

"AN ACT Relating to obsolete references;"

This bill changes all references to the Department of Fisheries or to the Department of Wildlife to the Department of Fish and Wildlife. Additionally, all references to the Department of Community Development or to the Department of Trade and Economic Development are changed to the Department of Community, Trade and Economic Development. A number of minor technical changes are also included.

Section 7 of House Bill 2590 updates the name of the Department of Fish and Wildlife in a list of departments to be represented on the pesticide advisory board in RCW 17.21.230. This change is also made in Substitute Senate Bill No. 6100, section 26, which makes substantive changes to the composition of the pesticide advisory board.

Section 16 of House Bill No. 2590 updates the names of the Department of Fish and Wildlife and the Department of Community, Trade and Economic Development in RCW 43.21A.170. However, Engrossed Substitute House Bill No. 2676 repeals this RCW section in abolishing the Ecological Commission.

Section 58 of House Bill No. 2590 updates the name of the Department of Fish and Wildlife in RCW 79.01.805, dealing with the harvest of seaweed. Substitute Senate Bill No. 6204, section 1, makes the same change and adds further substantive changes to RCW 79.01.805.

Section 59 of House Bill No. 2590 updates the name of the Department of Fish and Wildlife in RCW 79.01.815, also dealing with seaweed. Substitute Senate Bill No. 6204, section 3, makes the same change and adds further substantive changes to RCW 79.01.815.

Section 100 of House Bill No. 2590 provides an effective date of July 1, 1994. At the time the bill was passed, the mergers of the agencies noted above were scheduled to occur on July 1, 1994. With the passage of Senate Bill No. 6345 and Senate Bill No. 6346, the mergers were expedited to March 1, 1994. The delayed effective date is, therefore, no longer necessary.

For the duplicative nature of the amendments offered, I have vetoed sections 7, 16, 58, and 59 of House Bill No. 2590. Additionally, as a delayed effective date is no longer necessary, I have vetoed section 100 of House Bill No. 2590.

With the exception of sections 7, 16, 58, 59, and 100, House Bill No. 2590 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

HB 2592

C 172 L 94

Harmonizing oversize vehicle permit laws.

By Representatives R. Fisher, Schmidt, Wood and Springer; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Transportation

Background: The Department of Transportation (DOT) may issue a special overweight permit for the operation of a log truck on a public highway. If a log truck is licensed to its maximum legal gross weight of 68,000 pounds, a special permit for an additional 6,800 pounds may be issued for an annual fee of $50, if the axle loading and spacing requirements are met.

In 1990, the transfer or replacement fee for other overweight special permits was increased from $5 to $14. The transfer and replacement fees for log truck special permits were inadvertently excluded from the fee increase.

The DOT issues a special overdimensional permit for the movement of a 14-foot wide by 85-foot long, non-reducible load for an annual fee of $150. The category was intended for the movement of manufactured housing, although the term "manufactured housing" was not included in the legislation. This has caused some confusion because the dimensions of the non-reducible load do not always coincide with the specifications of the permit.

New language was added during the 1993 session which allows the department to sell any of its overdimensional permits for periods up to one year. Prior to this change, overdimensional permits were valid for 30 days. Operators currently using the 14-foot by 85-foot, annual manufactured housing permit to move non-related loads can now purchase other overdimensional permits for periods up to one year.

Summary: The transfer or replacement fee for a log truck special overweight permit is increased from $5 to $14, thereby making the log truck permit fee consistent with other overweight permit transfer fees.

Language is added to clarify that the annual 85-foot long (bumper to bumper) by 14-foot wide overdimensional

special permit is intended for the movement of mobile homes and manufactured housing.

Votes on Final Passage:

House	96	0
Senate	47	1

Effective: June 9, 1994

HB 2593

C 173 L 94

Funding highway improvements.

By Representatives R. Fisher and Springer; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Transportation

Background: In 1985, $10 million of bonds were authorized for state highway improvements necessitated by planned economic development, with the debt service to be paid from the motor vehicle fund. Application for improvements to state highways are submitted to the Community Economic Revitalization Board (CERB) and subject to final approval by the Transportation Commission.

Expenditures for approved projects are so small that issuing a bond for each project becomes unfeasible. In addition, federal tax laws have imposed restrictions on tax exempt bond financing to prevent arbitrage.

Summary: The $10 million CERB bond authorization is amended to allow the shift of the remaining bond sales authority from the economic development account to the motor vehicle fund. In turn, the motor vehicle fund will, upon appropriation authority, deposit a like amount of cash into the economic development account. CERB projects will be funded from the cash balance, and the CERB bonds will become part of the Department of Transportation highway bond authorization.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
Senate	44	0	(Senate receded)

Effective: March 30, 1994

HB 2601

C 96 L 94

Implementing the cellular communications tax study recommendations regarding 911 emergency communication system funding.

By Representatives Finkbeiner, Brumsickle, Bray, Wang and Scott.

House Committee on Revenue
Senate Committee on Energy & Utilities

Background: Cellular telephones are mobile or portable devices that are part of what the Federal Communications Commission calls "Domestic Public Cellular Radio Telecommunications Service." Cellular telephone systems divide service areas into relatively small "cells," using multiple transmitter/receiver locations ("cell sites"). These cell sites are connected with each other and the ordinary telephone network in a way that allows a cellular telephone user to move from one cell to another while maintaining a telephone connection.

Cellular telephone systems are subject to property tax in the same manner as any other property. Cellular telephone devices and equipment are subject to sales and use taxation in the same manner as other tangible personal property.

Cellular telephone services (represented by monthly and per-call charges) are included in the definition of "telephone services" that are subject to sales and use taxes. Because telephone services are taxable as retail sales, cellular companies pay state B&O taxes on gross receipts at the retailing rate (0.471 percent). There is no state utility tax on telephone services. However, cities impose utility taxes on utility services, including "network telephone services," which includes cellular telephone service. City utility rates may not exceed 6.0 percent for telephone, electrical energy, natural gas, and steam energy services after 1992 unless the voters approve a higher rate. The rate on water, sewer, garbage, and cable television services is not limited.

Counties may impose a tax of 50 cents on each telephone line to fund emergency telephone (911) systems. The state also imposes a tax of 20 cents on each telephone line. After December 31, 1998, the state rate will be 10 cents per line. Cellular telephones are not subject to these taxes because they do not use switched telephone lines.

In 1992, the Legislature directed the Department of Revenue to study and define cellular communications, and recommend to the Legislature how cellular communications should be taxed. The department submitted an interim report in December 1992, and a final report in December 1993. The report included several recommendations regarding property taxes, city utility taxes, and 911 taxes.

Summary: The legislative authority of a county may also impose an excise tax on the use of telephone numbers assigned to cellular telephones. The tax may not exceed 25 cents per month. Like the 911 tax on switched telephone lines, the revenue from the new tax may be used only for emergency services communications systems.

The Department of Revenue is directed to conduct a study of the 911 excise tax. The study will address but not be limited to questions of who pays the tax, projected revenues, projected expenditures, funding of 911 systems in other states, appropriate base and tax rate, and fiscal impacts of changing the tax structure.

To perform this study, the Department of Revenue is to form an advisory study committee with balanced representation from county government, wireline and wireless telecommunications companies, large and small businesses that use wireline and wireless telecommunications services, the Department of Community, Trade, and Economic Development, and county 911 coordinators. The committee will also include two members from the House of Representatives, and two members from the Senate.

The Department of Revenue is to present a final report of the findings of the study to the committees of the Legislature that deal with revenue matters by July 1, 1995. Revenue from the state 911 tax may be appropriated to pay the costs of the study.

Cellular telephone companies must provide a system of automatic number identification so that 911 operators may identify the number of a caller.

Votes on Final Passage:

House	79	17	
Senate	42	1	(Senate amended)
Senate	40	1	(Senate receded)

Effective: March 23, 1994
January 1, 1995 (Section 5)

E2SHB 2605

C 234 L 94

Changing higher education statutory relationships.

By House Committee on Appropriations (originally sponsored by Representatives Jacobsen, Brumsickle, Dorn, Bray, Ogden, Dunshee, Pruitt and J. Kohl).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education

Background:

Domestic Student Exchange Program. In 1989, four-year institutions of higher education were authorized to enter exchange agreements with comparable public institutions in other states. Through the agreements, undergraduate upper-division students from out-of-state colleges and universities could pay resident tuition rates for up to one year at a participating Washington baccalaureate institution. In return, an equal number of Washington students would pay resident tuition rates at the out-of-state institution.

Washington Scholars Program. The Washington Scholars Program was created by the 1981 Legislature. The program recognizes three outstanding high school seniors from each legislative district. The students representing each district do not need to live in the district that they represent. They may be attending a high school in that district instead. Consequently, at times, more than three students have received awards in some legislative districts, while students in neighboring legislative districts have not received any awards.

Washington Community and Technical College Exceptional Faculty Awards Program. In 1990, the Washington Community College Exceptional Faculty Awards Program was created. Through the program, $25,000 in state funds may be matched with an equal amount of private donations. The state funds and private donations are placed in a local endowment fund created for each faculty award. Earnings on the money in the fund may be used for faculty development, to supplement the salary of the holder of the award, or to pay expenses associated with the holder's program area.

Until 1993, by statute, each participating community or technical college was required to receive the state matching money and to manage all money in the endowment fund. In 1993, legislation was enacted that permitted community and technical college foundations to participate in the program. Within specified limits, each college foundation was permitted to receive state matching money and manage the money in the endowment fund established for each award. The legislation did not allow a college foundation to manage endowment funds that were already established by its college.

National Guard Conditional Scholarship Program. From 1979 to 1985, the National Guard Assistance Program operated in Washington. The program permitted enlisted members of the National Guard to receive grants of up to $1,000 per year to cover reimbursable educational costs at accredited public or private colleges. The reimbursable costs included tuition, fees, books, institutional services, and laboratory supplies. Recipients were limited to 12 academic quarters or the equivalent. From 1979 to 1985, approximately $200,000 per biennium was appropriated for the program.

Under the 1983 Sunset Act, the program was scheduled for termination on June 30, 1985. The Legislative Budget Committee (LBC) undertook a final program audit. The committee found that 27 states had tuition waivers or assistance for National Guard personnel. Two states provided education loans, eight states had selective scholarship programs, and six states provided educational assistance for dependents, usually under hardship conditions. Seven states did not have any program.

The final LBC program audit concluded that the effectiveness of the assistance program "cannot be readily demonstrated as required under the provisions of the Sunset Act," and that the continuation of the program was not warranted at that time. The LBC also commented that, "...if the Legislature decides to continue the program, it is additionally recommended that the program be targeted toward enhancing the manning of those National Guard units most likely to be utilized in the event of natural or man made disasters."

Legislation was introduced in 1985 to continue the assistance program. The legislation did not pass, and the program terminated on June 30, 1985.

Some members of the National Guard are eligible to participate in the Montgomery GI Bill Program. Eligibility criteria and educational benefits vary depending on the type and date of enlistment, and on the nature of the educational program.

Summary:

Domestic Student Exchange Program. The program is no longer limited to upper division students nor to comparable out-of-state institutions. Accordingly, a four-year college or university may enter into a student exchange agreement with any institution of higher education in another state. Through the agreement, each institution will agree to exchange students for one year, and to allow participating students to pay resident tuition rates.

Washington Scholars Program. The Washington Scholars Program will honor three graduating seniors residing in each legislative district. This replaces the requirement that the three scholars selected to represent each legislative district must be attending a high school located in that district.

Washington Community and Technical College Exceptional Faculty Awards Program. A community college or technical college may transfer money for exceptional faculty awards from its local endowment fund to its foundation's local endowment fund, subject to two conditions: (1) the money transferred must have been accumulated between July 1, 1991 and July 25, 1993; and (2) the transfer must be approved by the college's governing board.

Washington State National Guard Conditional Scholarship Program. The Washington State National Guard Conditional Scholarship program is created. The program will be administered by the Office of the Adjutant General of the state military department. Through the program, members of the National Guard below the rank of major may receive conditional scholarships to attend an institution of higher education in Washington. The scholarship cannot exceed the annual cost of undergraduate tuition and fees at the University of Washington, plus an allowance for books and supplies. The student may attend any Washington public or private college or university accredited by the Northwest Association of Schools and Colleges. Participants must repay the scholarship, with interest, unless they serve in the National Guard for one additional year for each year of scholarship received. The interest rate on any repayments will be 8 percent.

Funding for the scholarships may come from state or federal funds, private donations, or repayments from participants who do not meet their service obligation. Program definitions and the powers and duties of the Adjutant General under this program are described. The responsibilities of the Adjutant General in collecting and managing repayments are also described.

Votes on Final Passage:

House	95	1	
Senate	39	10	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	41	4	
House	95	1	

Effective: June 9, 1994

ESHB 2607

C 132 L 94

Establishing alternative procurement procedures for state agencies and municipalities.

By House Committee on Capital Budget (originally sponsored by Representatives Wang, Ogden and Sehlin).

House Committee on Capital Budget
Senate Committee on Government Operations

Background: The public works process used by most state and local agencies for constructing buildings separates the architectural design phase of a project from the construction phase. Under this process, an architectural firm is retained to design the facility and prepare construction documents. After the detailed design and construction documents are complete, the construction phase of the project is put out for competitive bid. A construction contract is then awarded to the lowest responsible bidder.

Procurement of architectural and engineering services differs from the competitive low-bid process in that agencies are not required to select firms based on the lowest bid, but may base their selection on the qualifications and past performance of the firm.

Alternative forms of public works contracting have been used by state agencies and local governments on a limited basis. For example, three new state agency office buildings were recently constructed in Thurston County using the "design-build" process. In design-build, agencies enter into a single contract for both design and construction services from one contractor, and design is performed simultaneously with construction on earlier stages of the project.

The "general contractor/construction manager" (GC/CM) method, another alternative form of public works contracting, was recently used to construct new prison facilities in Airway Heights and Purdy. The GC/CM process melds the design and construction phases of a project into one, allowing design and construction to occur simultaneously. Under GC/CM, an agency enters into two contracts - one with an architectural firm to design the facility, and one with a GC/CM firm to assist in developing and evaluating the facility design and to manage the construction. Most of the actual construction work under GC/CM is broken into parts and competitively bid to subcontractors using the public bid process.

State agencies may negotiate an adjustment to the bid price with the lowest responsible bidder on a public works project in order to bring the bid within budget if the low bid exceeds available funds by 5 percent or less on projects under $1 million, the greater of $50,000 or 2.5 percent on projects between $1 million and $5 million, or the greater of $125,000 or 1 percent for projects over $5 million.

Summary: Alternative public works contracting procedures are authorized for use on a limited basis by specified state and local entities.

The Department of General Administration, the University of Washington, Washington State University, and six local governments, including cities with populations greater than 150,000 and counties with populations greater than 450,000, are authorized to use the design-build contracting procedure on the following types of projects valued over $10 million: projects where construction activities are highly specialized and design-build is critical in developing the construction methodology, projects where the design is repetitive in nature and an incidental part of construction, and projects where the program elements of the design are simple and do not involve complex functional interrelationships. The Department of General Administration may use the design-build contracting procedure for only one project where the program elements of the design are simple and do not involve complex functional interrelationships.

The Department of General Administration, the University of Washington, Washington State University, and eight local governments, including cities with populations greater than 150,000, counties with populations greater than 450,000, and port districts with populations greater than 500,000, are authorized to use the GC/CM contracting procedure on the following types of projects valued over $10 million: projects which involve complex scheduling requirements, projects which involve construction at existing facilities which must continue to operate during construction, and projects where involvement of the GC/CM is critical to the success of the project.

Under certain conditions a design-build or GC/CM contracting procedure may be used by a special agency, authority or other district established by a county for construction of a baseball stadium.

A preliminary determination to use the alternative contracting procedures must be followed by a specified public notification, review, and comment process. A final determination to use the alternative procedures is subject to appeal to superior court within 30 days of the final decision.

Design-build and GC/CM contracts must be awarded using a competitive process following the public solicitation of proposals. Each public body must establish a committee to evaluate and score proposals based on specified factors. After initial qualification for design-build projects, the entity must select between three and five finalists to submit best and final proposals and must initiate negotiations for a design-build contract with the highest-scoring firm. Public bodies must provide honorarium payments to finalists who are not awarded a design-build contract. For GC/CM contracts, public bodies must select the most qualified finalists to submit bids for GC/CM services and must initiate negotiations for a GC/CM contract with the low bidder. Firms awarded a design-build or GC/CM contract must post a performance and payment bond for the contracted amount.

All subcontract work on GC/CM projects must be competitively bid with public bid openings. Subcontractors who bid work over $200,000 on a GC/CM project must post a bid bond. Subcontractors awarded contracts over $200,000 on a GC/CM project must provide a performance and payment bond for their contract amount. The GC/CM may require subcontractors awarded work under $200,000 to provide a performance and payment bond.

Public bodies may negotiate an adjustment to the lowest bid or proposal price for design-build or GC/CM projects under the following conditions: all bids or proposal prices exceed available funds, the apparent low responsible bid or proposal does not exceed the available funds by more than $125,000 or 2 percent for projects valued over $10 million, whichever is greater, and the negotiated adjustment will bring the bid or proposal within the amount of available funds.

Public bodies must utilize specified project planning, management and administration procedures when using alternative public works contracting methods. Contract documents must include budget contingencies not less than 5 percent of the anticipated contract value and alternative dispute resolution procedures. Contracts may include incentive payments to contractors for early completion of the project, cost savings or other goals.

All proceedings, records and contracts relating to the use of the alternative public works contracting procedures must be available for public inspection except for trade secrets or proprietary information submitted by a bidder.

An independent oversight advisory committee is established to review utilization of the authorized alternative public works contracting procedures and to evaluate potential future utilization of other alternative contracting procedures such as contractor prequalification. Committee membership includes four members of the Legislature, one from each major caucus of the House of Representatives and the Senate; and representatives from public bodies authorized to use the alternative procedures, the construction and design industries, and organized labor, appointed by the Governor. The committee must report its findings to the Legislature by December 10, 1996.

The alternative public works contracting procedures are limited to public works contracts signed prior to July 1, 1997. Statutes creating the alternative procedures are repealed, effective July 1, 1997.

Votes on Final Passage:
House 55 41
Senate 45 3
Effective: June 9, 1994

SHB 2608

C 26 L 94

Allowing a port commission to sell property valued at under ten thousand dollars.

By House Committee on Local Government (originally sponsored by Representatives Moak, Edmondson, H. Myers, Springer and Rayburn).

House Committee on Local Government
Senate Committee on Government Operations

Background: A port commission may adopt a resolution authorizing the port manager to sell port district property valued at less than $2,500. The port manager must itemize and list such property and make written certification to the commission that the listed property is no longer needed by the port district.

Property with a value of more than $2,500 may be sold if the port commission adopts a resolution declaring that the property is no longer needed for district purposes and that the property is not part of the port district's comprehensive plan of improvements.

Summary: The maximum value of port property that a port commission may authorize the port manager to sell without the commission adopting a resolution declaring that the property is no longer needed is increased from $2,500 to $10,000.

The $10,000 figure is to be adjusted annually in accordance with the governmental price index established by the Department of Revenue.

Votes on Final Passage:
House 96 0
Senate 44 0
Effective: June 9, 1994

SHB 2614

C 97 L 94

Allowing self-insured employers to close disability claims after July 1990.

By House Committee on Commerce & Labor (originally sponsored by Representatives King, Lisk, G. Cole, Foreman, Chandler, Brough, Dyer, Silver and Van Luven).

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

Background: Self-insured employers are authorized to close the industrial insurance claims of their workers if the claims involve only medical treatment. Claims with other types of compensation are closed by the Department of Labor and Industries.

Between 1986 and 1990, self-insured employers were authorized to close industrial insurance claims if either medical treatment payments or temporary disability payments were made on the claims. The self-insurer could not close claims that involved permanent disabilities or raised disputes that required intervention by the department. In addition, the injured worker was required to have returned to work with the employer. The authority to close these claims expired July 1, 1990.

The Governor vetoed a bill in 1993 that would have reauthorized closure of these claims by self-insurers. The bill would have added the condition that the worker had returned to work with the employer at the previous job or a job with comparable wages, benefits and permanency.

Summary: Self-insured employers' authority to close certain industrial insurance claims is reinstated and made permanent. The claims may include temporary disability payments, or payments for both medical treatment and temporary disability but may not involve payment for permanent disability. These claims may be closed by the self-insurer only if the Department of Labor and Industries has not intervened because of a dispute and if the injured worker has returned to work with the self-insured employer at the worker's previous job or a job that has comparable wages and benefits.

Votes on Final Passage:
House 94 0
Senate 48 0
Effective: June 9, 1994

2SHB 2616

C 252 L 94

Directing the department of health to test ground water in order to seek waivers under the safe drinking water act.

By House Committee on Capital Budget (originally sponsored by Representatives Linville, Horn, Rust, Foreman, Kremen, B. Thomas, Roland, Van Luven, Basich, Karahalios, Holm, Hansen, L. Johnson, Peery, J. Kohl, Bray, Flemming, Pruitt, Edmondson, Forner, Valle, Shin, R. Meyers, Ogden, Dunshee, Wolfe, Sheldon, Jones, Brough, Sheahan, Romero, Chappell, Dyer, Springer, King, Cothern and Long).

House Committee on Capital Budget
Senate Committee on Ecology & Parks
Senate Committee on Ways & Means

Background: In 1991-92, the Department of Health surveyed public water systems covered by the federal Safe Drinking Water Act (SDWA) to determine the financial needs for the systems over the next several years. The

assessment concluded that for the period between 1993-1999 there would be a combined capital need of $2.22 billion. The assessment includes $686 million for compliance with the federal SDWA, $831 million for rehabilitation and replacement of existing infrastructure, and $707 million for growth. The assessment concluded that 80 percent of the capital costs would be incurred by the large systems but that the costs are greater, on a proportional basis, for the smaller systems. Very small systems, down to 10 connections, may have monthly expenses of over $50 per connection just to meet the monitoring and operational costs of the federal SDWA.

The federal SDWA allows three types of waivers from testing requirements. First, testing requirements can be waived if a water system can demonstrate to the Department of Health that its aquifer is geologically protected from contamination. Second, a water system can conduct tests to demonstrate the lack of contamination in that water system. Third, testing can be done on selected water systems over a large geographic area, such as a county. Those parts of the county that show low vulnerability to the substances being tested can be waived from full testing requirements. This type of waiver is known as an "area-wide" waiver. An area-wide waiver may be particularly beneficial to small water systems because relatively few water systems must be tested. Waivers typically last three years.

The Environmental Protection Agency (EPA) has recently updated and expanded its rule for pesticides as required by the federal SDWA. This rule will require local water systems to conduct tests for an increased number of pesticides every three years.

The local toxics account receives approximately $21 million per year from a portion of the.7 percent tax on toxic substances. The account may be used only for grants to local governments to clean up contaminated sites, develop solid and hazardous waste plans, and implement these plans.

Summary: The Department of Health is directed to develop a voluntary program to test selected local public drinking water systems for pesticides covered by the EPA's drinking water rules. Public water systems identified as having a low vulnerability for pesticides are eligible for waivers from full testing requirements.

The Department of Health must pay all initial testing and programmatic costs and then recover these costs by June 30, 1995 from local systems that use the area-wide waiver. Fees charged to local systems are to be adjusted based on the size of the system but cannot vary by more than a factor of 10. The department is required to prepare a report to the appropriate standing committees of the Legislature on the number of waivers granted, the money saved by local systems, expected fee recovery timeline, and other information.

The eligible uses of the local toxics account are expanded to include the Department of Health's voluntary testing program. The department is required to fully reimburse the account by June 30, 1995.

The Department of Ecology may issue funds from the local toxics account as loans to local governments. A change is made to the account to clarify that all purposes under the solid and hazardous waste laws may be funded.

Votes on Final Passage:

House	94	0	
Senate	42	0	(Senate amended)
House			(House refused to concur)
Senate	44	0	(Senate receded)

Effective: April 1, 1994

SHB 2618

C 209 L 94

Adding ferry water routes to the state highway system.

By House Committee on Transportation (originally sponsored by Representatives Schmidt, Zellinsky, Wood, Johanson, Sheldon, Talcott and J. Kohl).

House Committee on Transportation
Senate Committee on Transportation

Background: The 18th Amendment to the state constitution provides that the purposes for which motor vehicle fuel tax and license fees may be used include "the operation of ferries which are part of any public highway, county road or city street." However, current statutes which list and describe state highways omit the water portion of the highway system.

The incorporation of existing ferry route descriptions into statutes describing state highway routes could enhance the state's ability and opportunity to qualify for federal funds under the Intermodal Surface Transportation Efficiency Act of 1991.

Additionally, the statutory inclusion of state ferry routes in the state highway system is needed to clarify the State Patrol's authority to provide law enforcement service at ferry terminals and on vessels.

Summary: Washington State ferry water routes are added to the state highway system.

A provision is added to clarify that a current statute providing for a rebate of motor vehicle fuel tax and license fees to island counties that have no state highways or physical connections to the mainland (i.e., San Juan County) is not affected by adding the Anacortes/San Juan Islands water route to the state highway system.

Votes on Final Passage:

House	91	0
Senate	49	0

Effective: June 9, 1994

ESHB 2626

C 174 L 94

Providing for the enforcement of plumbing certificate of competency requirements.

By House Committee on Commerce & Labor (originally sponsored by Representatives Mastin and Grant).

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

Background: A person may not engage in plumbing work unless he or she has a certificate of competency, a temporary permit, or a training certificate. The Department of Labor and Industries assesses certification fees that are deposited in the plumbing certificate fund.

Each day that a person engages in plumbing work without the required certificate or permit is a separate infraction. Persons who have committed infractions are subject to a $100 penalty. Citations for infractions of the plumbing certificate requirements are issued by the department and enforced in district court.

Summary: The Department of Labor and Industries is directed to establish a pilot project in which it will enter into an agreement with a city to permit enforcement of the plumbing certificates of competency laws. The pilot project will be in Eastern Washington. Under the agreement, the city will conduct compliance investigations and submit declarations of noncompliance to the department for the department's enforcement action, with reimbursement to the city at an established fee.

A person may not offer to engage in the plumbing trade unless he or she has a certificate of competency or other required certificate or permit.

No contractor may employ a person in the plumbing trade unless the person has the required certificate or permit. Infractions may be issued to a contractor who employs, or a contractor's employee who authorizes the work assignment of, a person who is working in the plumbing trade without the required certificate or permit. The contractor or contractor's employee is subject to a separate infraction for each day and for each worksite at which a person is employed in plumbing work without the required certificate or permit. A "contractor" is a person engaged in work subject to the laws governing plumbing certificates, electrical licensing and contractor registration, but the term does not include a person contracting for work on his or her own residence.

The minimum penalty for a violation of the plumbing certificate of competency requirements is increased from $100 to $250 for the first infraction, and no more than $1,000 for a second or subsequent infraction. The department must adopt a schedule of penalties.

Infractions will be enforced in an administrative hearing with an administrative law judge. Penalties collected will be deposited in the plumbing certificate fund.

Votes on Final Passage:

House	96	0	
Senate	31	17	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House	95	0	(House concurred)

Effective: July 1, 1994

SHB 2627

C 235 L 94

Promoting single-family home ownership.

By House Committee on Trade, Economic Development & Housing (Originally sponsored by Representatives Quall, Ballard, Valle, Foreman, Shin, Sehlin, Campbell, Johanson, Veloria, Peery, Hansen, G. Cole, Lemmon, Brumsickle, Heavey, Finkbeiner, Dunshee, R. Johnson, Karahalios, Springer, Mastin, Jacobsen, Chappell, R. Meyers, Basich, Patterson, Linville, Grant, Fuhrman, Kremen, Dorn, Ogden, Caver, Scott, Moak, Kessler, Conway, Roland, King, Rayburn, Chandler and J. Kohl.)

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

Background: Encouraging and maintaining home ownership opportunities are two of the stated objectives of the Washington Housing Policy Act. To meet these objectives, a variety of federal, state, and local programs were developed to increase home ownership for low and moderate income households.

Most of these programs focused on lowering the cost of home ownership through reductions in the interest rate or the loan amount. However, for most low- and moderate-income households, the three greatest barriers to home ownership are: (1) accumulating the down payment and closing cost; (2) establishing a credit history; and (3) managing housing expenses that often exceed standards permitted in traditional mortgage lending.

The Washington State Housing Finance Commission assists in the financing of housing for low and moderate income households. The commission is authorized to issue tax-exempt or taxable revenue bonds to provide mortgage financing for single-family home ownership.

The State Investment Board is responsible for the management of the public retirement systems of state and local government employees. The board is authorized to invest retirement system assets in a variety of investments including commercial and residential real estate.

Summary: The Washington State Housing Finance Commission, in cooperation with the Department of Community, Trade, and Economic Development, and the State Investment Board, must develop and implement a housing finance program.

The housing finance program will: (1) provide subsidized or unsubsidized mortgage financing for single-family home ownership; (2) use resources of the State Investment Board, within its policies and guidelines, to purchase mortgage-backed securities collateralized by loans from the state of Washington; and (3) provide flexible loan underwriting guidelines.

Participation in the housing finance program is limited to first-time home buyers with incomes that do not exceed 115 percent of state or county median family income, whichever is higher, adjusted for household size. Priority is given to active participants of the state's retirement systems. Lower-income borrowers may be eligible for down payment or closing costs assistance.

The Washington State Housing Finance Commission is required to report, to the Governor and Legislature, on the status of the program by February 1 of each year beginning in 1995.

Votes on Final Passage:

House	96	0	
Senate	30	18	(Senate amended)
House	74	18	(House concurred)
House			(House refused to concur on reconsideration)

Conference Committee

Senate	43	3
House	96	0

Effective: June 9, 1994

ESHB 2628

C 175 L 94

Revising provisions relating to condemnation of blighted property.

By House Committee on Local Government (originally sponsored by Representatives R. Fisher, Campbell, Edmondson, Sommers, Appelwick and Dorn).

House Committee on Local Government
Senate Committee on Government Operations

Background: Counties, cities, and towns are authorized to condemn property, dwellings, buildings, and structures constituting a blight on the surrounding neighborhood. A "blight on the surrounding neighborhood" is defined as property that: (1) has not been lawfully occupied for one year or more; (2) constitutes a threat to the public health, safety, or welfare, as determined by the county health department; and (3) is or has been associated with illegal drug activity during the previous 12 months.

Before the property may be condemned, the county, city, or town governing body must adopt a resolution declaring that the acquisition of the property is necessary to eliminate neighborhood blight.

Summary: The requirements are altered for a county, city, or town to condemn property that constitutes a blight on the surrounding neighborhood. Such property may be condemned if two of the following three factors are met: (1) if there is a structure on the property, the structure has not been lawfully occupied for a year or more; (2) the executive authority of the county, city, or town determines the property constitutes a threat to the public health, safety, or welfare; and (3) the property is associated with illegal drug activity during the previous 12 months.

Votes on Final Passage:

House	91	4
Senate	38	8

Effective: June 9, 1994

SHB 2629

C 176 L 94

Revising the definition of junk vehicle.

By House Committee on Transportation (originally sponsored by Representatives R. Fisher, Appelwick, Campbell, Sommers, Edmondson and Dorn).

House Committee on Transportation
Senate Committee on Transportation

Background: In order for a vehicle to meet the statutory definition of a "junk vehicle," it must meet five requirements. Those requirements include that the vehicle be: (1) three years old or older; (2) extensively damaged; (3) apparently inoperable; (4) without a valid, current registration plate; and (5) of an approximate fair market value equal only to the approximate value of the scrap in it.

The abandonment of a motor vehicle may result in the issuance of a notice of traffic infraction.

Summary: The definition of a junk vehicle is changed in two ways. First, the requirement that a vehicle must be without a valid, current registration plate is deleted. Second, a vehicle must meet only three of the four remaining criteria in order to be classified as a junk vehicle by law enforcement. A law enforcement officer writing a traffic infraction for an abandoned vehicle shall send a copy of the infraction to the last known address of the registered owner by certified mail.

Votes on Final Passage:

House	70	25	
Senate	44	1	(Senate amended)
House	87	6	(House concurred)

Effective: June 9, 1994

HB 2641
C 297 L 94

Revising provisions relating to collective bargaining for employees of the Washington State Bar Association.

By Representatives Thibaudeau, Chandler, Conway, Anderson, Heavey and Campbell.

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

Background: The Public Employees' Collective Bargaining Act provides public employees procedures for implementing their right to join labor organizations of their own choosing and to be represented in matters concerning their employment relations with public employers. The collective bargaining statutes apply generally to political subdivisions of the state but not to the state itself.

Employees of the Washington State Bar Association are not specifically covered by the collective bargaining statutes. In 1993, a bill was enacted that encouraged and authorized the Washington Supreme Court to provide by rule that the bar association is considered a public employer under the Public Employees' Collective Bargaining Act. The court adopted a rule that gives the bar association's Board of Governors discretionary authority to adopt collective bargaining for its employees.

Although the Washington State Bar Association was established by legislative enactment, the Washington Supreme Court maintains supervisory and regulatory control over the bar association. The Court has held that as a separate, independent branch of government, it has inherent constitutional powers to control the bar association and its functions as part of its administration of the courts.

In 1975, the Washington Supreme Court found that application of collective bargaining statutes to juvenile court employees, with respect to bargaining for wages with the county, did not affect the judiciary's power to control and administer the courts. The Legislature made collective bargaining statutes fully applicable to district courts in 1989 and superior courts in 1992.

Summary: The Washington State Bar Association is considered a public employer under the Public Employees' Collective Bargaining Act. The 1993 law encouraging the state Supreme Court to adopt collective bargaining for bar association employees is repealed.

Votes on Final Passage:

House	52	45
Senate	31	17

Effective: June 9, 1994

SHB 2642
C 133 L 94

Modifying fireworks enforcement protection services.

By House Committee on Commerce & Labor (originally sponsored by Representatives Heavey and Lisk; by request of Department of Community Development).

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

Background: In 1993, legislation was enacted merging the Department of Community Development and the Department of Trade and Economic Development into the Department of Community, Trade, and Economic Development. The director of fire protection is within the Department of Community Development and is responsible for enforcement of the fireworks code.

In the fireworks code, the definition of "special effects" covers effects that are a necessary part of a motion picture, radio or television production, theatrical production, or opera. It is not clear whether fireworks at sporting events are covered. The word "city," as used in the code, is not defined.

There is some dispute over whether a fire protection district has the authority to deny a permit when a city government or a county government has already issued a permit.

A person must have a license to manufacture, import, possess, sell, display or transport fireworks, unless the activity is exempted from the license requirement. Any applicant who has been denied a license is entitled to a hearing in accordance with the Administrative Procedure Act.

The department may seize and dispose of illegal fireworks, but must provide an opportunity for a hearing. Disposal may include sale to a fireworks wholesaler.

Summary: References in the fireworks code to the Department of Community Development are changed to the Department of Community, Trade, and Economic Development.

The fireworks code definition of "special effects" is amended to cover effects that are an integral part of a motion picture, radio or television production, or live entertainment. "City" is defined as any city or town.

All provisions in the fireworks code referring to the regulatory and permitting authority of local fire protection districts are stricken.

License application requirements are clarified. An applicant who has been denied a license is still entitled to a hearing, unless the denial was based on the failure to apply on time.

Illegal fireworks may be seized by the Department of Community, Trade, and Economic Development or by state agencies or local governments having general law enforcement authority. The agency that seizes illegal fireworks is allowed to sell them to manufacturers who are authorized to possess and use them. If illegal fireworks are

seized by a law enforcement agency, the law enforcement agency must follow the same hearing procedures required of the department.

A statement is included in the fireworks code providing that the inclusion of criminal penalties in the fireworks code does not preclude enforcement through civil means.

The firearms and dangerous weapons statute is amended to provide that nothing in that statute prohibits the possession, sale, or use of fireworks when the fireworks are possessed, sold, or used in compliance with the fireworks code.

Other technical changes are made to the fireworks code.

Votes on Final Passage:

House	87	7
Senate	44	2

Effective: March 28, 1994

EHB 2643

C 298 L 94

Cross-referencing pension statutes.

By Representatives Sommers and Silver; by request of Department of Retirement Systems.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Many statutes relating to compensation and benefits for teachers, law enforcement officers/fire fighters, public employees, and judges are not cross-referenced to the statutes governing the retirement systems of these employees.

Assault pay, temporary duty disability, and leave-sharing pay are not payments for "personal services" as defined in retirement system statutes. These payments are included, however, in a member's calculated earnable compensation. Statutes authorizing sick leave cash-outs for state and school district employees and certain vacation leave cash-outs for state employees in excess of 30 days are specifically excluded from the retirement benefit calculation. These definitions and exclusions are not currently cross-referenced to the retirement system statutes.

School district employees may count up to 45 days of sick leave as service solely for the purpose of qualifying for retirement. Teachers' Retirement System (TRS) members may use out-of-state teaching service in calculating eligibility to retire.

A TRS Plan I member must have at least five years of public school service to receive a TRS retirement allowance. This conflicts with the portability law enacted in 1987 which allows employees to vest in a system with five years of combined service between all the systems included in the portability statutes.

An Attorney General opinion has found that a statute denying enrollment of a law enforcement officer or fire fighter in the Law Enforcement Officers' and Fire Fighters' (LEOFF) retirement plan for health reasons also prohibits enrollment in the Public Employees Retirement System (PERS).

LEOFF retirement benefits are protected by statute from assignment or garnishment. Prior to 1990, the provision clearly applied to both LEOFF Plans I and II. In a 1990 re-codification, the anti-assignment sub-chapter was placed in the sub-chapter governing only Plan I.

PERS and TRS statutes define a retiree as an individual "in receipt" of a benefit check.

The 1993 operating budget transferred $25 million of general state funds to the budget stabilization account to be used for continuing costs of any state retirement system benefits in effect on July 1, 1993.

Summary: Certain compensation and benefit statutes are cross-referenced to relevant retirement system statutes, and technical changes are made to clarify how various types of compensation are treated in the retirement system: (1) statutes governing assault pay, temporary duty disability, leave sharing, sick leave and vacation leave cash-outs, and the 45-day service rule are cross-referenced to PERS and TRS; (2) members who have dual retirement system membership are exempted from the statute requiring a TRS member to have five service credit years before he or she may receive a retirement allowance; (3) the PERS membership definition is changed so that the LEOFF statute denying LEOFF membership for health reasons will not disqualify a law enforcement officer or fire fighter from membership in PERS; (4) the LEOFF I anti-assignability section is recodified to the LEOFF subchapter governing both Plan I and II; and (5) a retiree is defined to be an individual who has been mailed a benefit check by the department.

The pension funding account is created. Twenty-five million dollars is transferred from the budget stabilization account to the pension funding account.

Employees in a state-approved apprenticeship program who are employed by a local government are excluded from PERS membership if they are a member of a Taft-Hartley retirement plan or other union-sponsored retirement plan.

Votes on Final Passage:

House	96	0	
Senate	43	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	47	0	
House	94	0	

Effective: June 9, 1994

ESHB 2644

C 177 L 94

Making retirement contributions and payments.

By House Committee on Appropriations (originally sponsored by Representatives Sommers and Silver; by request of Department of Retirement Systems).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Department of Retirement Systems (DRS) is not specifically authorized by statute to charge interest on contributions owed to the state by employers or members. The statutes also do not address collection of benefits from an estate.

All retirement systems' members may withdraw contributions in a lump sum upon termination of employment. The members may restore withdrawn contributions and service credit upon reemployment. There are no provisions addressing procedures or status for a member who withdraws contributions erroneously, such as when the member terminates employment temporarily, requests a withdrawal of contributions, and then restores employment.

In calculating retirement allowances, DRS has interpreted statutes to exclude standby pay. The Department of Personnel has, however, been including standby pay in compensation reports for PERS members. Thus, retiree benefits have been calculated on the basis of compensation that included standby pay.

Summary: The Department of Retirement Systems is authorized to seek repayment of benefit overpayments except when explicitly prohibited in statute. Specifically, the department may: (1) charge interest on employer or member contributions not paid immediately after service; (2) collect overpayments and 1 percent interest per month from members when the overpayment was a result of fraud; (3) collect overpayments by reducing a retiree's future benefit; and (4) collect overpayments made to persons or entities other than the member, such as an estate or individual with power of attorney over retiree's finances.

All previous erroneous withdrawals of contributions will be treated as authorized withdrawals and be subject to the member's system rules for restoration of withdrawn contributions. Failure to restore a withdrawal within the time prescribed by statute, which varies by system, will constitute a waiver of service credit. Additionally, if a member requests a refund of contributions and then is reemployed before the refund is made, the member will not receive payment of his/her contributions. A written or oral agreement for reemployment is a satisfactory basis to refuse a member's request for a withdrawal of contributions.

The department's retroactive application of a 1990 amendment regarding crediting of service under TRS Plan 2 is ratified.

Provisions are added to ratify the inclusion of standby pay in a member's compensation earnable under specific circumstances. Standby pay will not be included in a member's compensation earnable unless the member must remain in a specific location, either at the job site or in the immediate vicinity of the job site and is required to be prepared to report to work immediately upon notice. For example, standby pay is not intended for inclusion in a member's compensation earnable when the member is only required to report to work after being notified by telephone, or pager, or some other similar notification device. Time on standby, however, may not be used to calculate retirement eligibility or benefits. In addition, the department is exempt from seeking repayment of overpayments that have been made to members as a result of incorrectly including standby pay as compensation earnable.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 9, 1994

HB 2645

C 134 L 94

Giving the apple advertising commission authority to accept gifts, grants, and other donations.

By Representatives Rayburn, Chandler, Grant, Ballard, Schoesler, H. Myers, Foreman, Lisk and Roland.

House Committee on Agriculture & Rural Development
Senate Committee on Agriculture

Background: The Apple Advertising Commission is directed by state law to provide a comprehensive research, advertising, and educational campaign for apples. It is expressly authorized to expend funds for commodity-related education, training, and leadership programs.

Summary: The Apple Advertising Commission is authorized to accept gifts and other conveyances of real or personal property; to expend the monies derived from the conveyances; and to engage in appropriate fund-raising activities to support the activities of the commission. The commission may spend monies derived from these gifts and conveyances to provide scholarships or financial assistance to individuals or entities associated with the apple industry.

Votes on Final Passage:

House	96	0	
Senate	43	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 9, 1994

SHB 2646

C 178 L 94

Modifying apiary regulation.

By House Committee on Agriculture (originally sponsored by Representatives Rayburn, Foreman, Hansen, Chandler, Grant and Lisk).

House Committee on Agriculture & Rural Development
House Committee on Appropriations

Background: One of the statutory duties of the Department of Agriculture is the administration of an apiary inspection program. Under this program, the director of the Department of Agriculture must provide regulation and inspection services, assure availability of bee colonies for pollination, facilitate the interstate movement of honey bees, combat bee pests that pose an economic threat to the industry, and, in cooperation with the cooperative extension program of Washington State University, provide education to promote the vitality of the apiary industry. Registration and inspection fees and other charges levied under the program are deposited in the apiary inspection account within the agricultural local fund.

Funding for the program was not provided as part of the department's portion of the 1993-95 budget.

Summary: The apiary inspection program is renamed the industry apiary program. A fee is established on the use of bee pollination services by growers of agricultural crops. The fee applies when growers receive such services from others and is in the amount of 50 cents for each setting of a hive used by the grower. The fee is paid by the grower, collected by the beekeeper, remitted to the department, and deposited in the apiary inspection account. This account is renamed the industry apiary program account. Revenues from these fees must be used to provide services to the apiary industry which assist in ensuring the vitality and availability of bees for commercial pollination services for the agricultural industry.

Persons, called brokers, who pollinate crops using hives that are owned by others, must register with the director of the Department of Agriculture annually and pay an annual registration fee. It is the same fee that applies, under current law, to the owners of bee hives. Beekeepers resident in other states who operate hives in Washington must also register and pay the registration fee.

Votes on Final Passage:

House	71	25
Senate	39	1

Effective: June 9, 1994

SHB 2655

C 135 L 94

Revising provisions relating to ownership of manufactured homes.

By House Committee on Trade, Economic Development & Housing (originally sponsored by Representatives Shin, H. Myers and Forner; by request of Department of Community Development).

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

Background: During the 1990 legislative session, the Legislature transferred the responsibility of administering the titling of manufactured homes from the Department of Licensing to the Department of Community Development. The Department of Licensing continues to administer the titles to manufactured homes through an interagency agreement between the two agencies. Ownership of a manufactured home is still largely treated like the ownership of a vehicle rather than ownership of a home.

A task force has been working on developing a new system of obtaining and transferring ownership of manufactured homes.

Summary: The Department of Community, Trade and Economic Development is required to work with the Department of Revenue and the Department of Licensing to develop proposed legislation that treats the ownership of manufactured homes more like housing than like vehicles.

The proposed legislation must treat manufactured housing as real property to the greatest extent possible, with the program being administered at the local level. The agencies must consult with affected interest groups, including local government officials and the Affordable Housing Advisory Board, when developing the proposed legislation. The agencies must report their findings and submit the proposed legislation to the House Trade, Economic Development and Housing Committee and the Senate Labor and Commerce Committee by December 1, 1994.

Votes on Final Passage:

House	96	0
Senate	47	2

Effective: June 9, 1994

SHB 2662

C 136 L 94

Modifying hazardous waste fees.

By House Committee on Revenue (originally sponsored by Representatives Holm, Foreman, G. Fisher, Dunshee, Patterson, Dorn, Lemmon, Basich, Ogden, Jones, Finkbeiner, Moak, Kremen, Springer, Roland, King,

Cothern, Morris, J. Kohl and L. Johnson; by request of Department of Revenue).

House Committee on Revenue
Senate Committee on Ecology & Parks
Senate Committee on Ways & Means

Background: A hazardous waste education fee of $35 is assessed on known and potential generators of hazardous wastes. Failure to pay the fee results in a penalty of three times the amount of the unpaid fee for a total potential liability of $140. The Department of Revenue collects the fee.

Late payment of excise taxes to the Department of Revenue results in penalties of 5 percent if paid after the due date, 10 percent if 30 days late and 20 percent if 60 days late.

Summary: The act suspends collection of the hazardous waste education fee from potential generators of hazardous wastes for one year (1994). The penalty of three times the amount of the unpaid fee is replaced with the lower penalties used for excise taxes collected by the Department of Revenue.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 9, 1994

EHB 2664

C 1 L 94 E1

Modifying provisions for tax deferrals for investment projects in distressed areas.

By Representatives Springer, Foreman, Jones, G. Fisher, Shin, Chappell, Basich, Pruitt, Holm, Ogden, Wolfe, Sheldon, H. Myers, Kessler, Conway, Cothern, Morris and Rayburn; by request of Governor Lowry.

House Committee on Revenue
Senate Committee on Ways & Means

Background: The sales tax deferral program for distressed areas was created in 1985. The program provides for a deferral of state and local sales and use tax liability on acquisitions of equipment and construction of facilities for manufacturers as well as research and development firms.

Distressed areas are counties with a three year average unemployment rate 20 percent greater than the state average unemployment rate and metropolitan statistical areas with a previous year unemployment rate 20 percent greater than the state average unemployment rate. Projects in neighborhood reinvestment areas are also eligible for tax relief. Distressed areas include: Adams, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Franklin, Grant, Grays Harbor, Kittitas, Klickitat, Lewis, Mason, Okanogan, Pacific, Pend Oreille, Skagit, Skamania, Stevens, Wahkiakum and Yakima counties, and the Yakima Metropolitan Statistical Area.

Eligible projects must create one job for each $300,000 of investment. Projects must invest in machinery, equipment and the plant complex by either constructing a new building, leasing a newly constructed building, purchasing an unoccupied building, or expanding or modernizing an existing plant complex.

Repayment of the tax takes place over a five year period beginning three years after completion of the project. Interest is not charged on the deferred taxes unless the project fails to create the required number of jobs. In addition, sales tax on the labor portion of construction costs need not be repaid if the project meets the required employment increase and the facility is still operating three years after completion.

Applications for the distressed area sales tax deferral program must be made to the Department of Revenue by July 1, 1998.

Summary: For investment projects for which a tax deferral has been approved after July 1, 1994, all sales and use taxes are forgiven. The program's sunset date is extended to July 1, 2004.

The sales tax deferral program for distressed areas is expanded in the following ways. Eligible projects are no longer required to include an investment in a building. A project in a county next to a distressed county may receive tax relief if 75 percent of the new jobs are filled by residents of the distressed county. A project is eligible for tax relief if 75 percent of new jobs are filled by residents of a neighborhood reinvestment area. Co-generation projects that are an integral part of a manufacturing facility and are at least 50 percent owned by the manufacturer are eligible for tax relief. The investment amount on which relief is granted is increased from $300,000 per job created to $750,000 per job created. Towns in timber impact areas, and counties designated by the Governor that have increased unemployment due to a natural disaster, business or military base closure, or mass layoff are added to the list of areas eligible for tax relief.

Votes on Final Passage:

House	78	7	
Senate	44	4	(Senate amended)
House			(House refused to concur)

First Special Session

Conference Committee

Senate	43	4
House	86	6

Effective: July 1, 1994

HB 2665

C 236 L 94

Providing a gross receipts tax deduction for low-density light and power businesses.

By Representatives G. Fisher, Fuhrman, Brown, Foreman, Bray, Campbell, Grant, Ballard, Rayburn, McMorris, Brumsickle, Dorn, Basich, Schoesler, Mastin, Kessler, Quall, Orr, Hansen, Silver, R. Johnson, Romero, Sheahan, Sheldon, Chappell, Lemmon, Jones, Moak, Springer, Roland and Morris.

House Committee on Revenue
Senate Committee on Ways & Means

Background: Public and privately-owned utilities, such as power and light, natural gas and water distribution companies, pay a gross receipts public utility tax instead of the business and occupation tax. There are four different public utility tax rates ranging from 0.642 percent on urban transportation activities to 5.029 percent on water distribution companies. The rate of 3.873 percent applies to light and power utilities. Utility businesses are not allowed to reduce their taxable gross receipts by the costs of doing business.

Summary: Light and power businesses with fewer than 17 customers per mile and with retail power rates greater than the state average may deduct from taxable gross receipts a portion of wholesale power costs. The deduction is the least of the following three amounts:

(1)
(a) 25 percent of wholesale power costs when the utility has fewer than 5.5 customers per mile of line;
(b) 20 percent of wholesale power costs when the utility has more than 5.5 but less than 11 customers per mile of line;
(c) 15 percent of wholesale power costs when the utility has more than 11 but less than 17 customers per mile of line;
(d) 0 percent of wholesale power costs when the utility has more than 17 customers per mile of line;

(2) wholesale power costs multiplied by the percentage by which average retail rates exceed the state average; or

(3) $200,000 per month.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 1, 1994

EHB 2670

C 8 L 94 E1

Increasing senior citizen property tax relief.

By Representatives G. Fisher, Foreman, Roland, Kessler, Shin, Campbell, Lemmon, Bray, R. Meyers, Basich, Johanson, Pruitt, Holm, Ogden, Sheldon, Caver, Quall, Jacobsen, Scott, Jones, Finkbeiner, Dellwo, H. Myers, Kremen, Conway, King, Rayburn, J. Kohl, L. Johnson and Anderson.

House Committee on Revenue
Senate Committee on Ways & Means

Background: Property subject to property tax is assessed at its true and fair market value, unless the property qualifies under a special tax relief program.

Some senior citizens and persons retired due to disability are entitled to property tax relief in the form of exemptions and deferrals of taxes on their principal residences. To qualify, a person must be 61 in the year of application or retired from employment because of a physical disability, own his or her principal residence and have a disposable income below specified levels. By administrative practice, the person is required to live in the residence on January 1st of the application year.

There are three levels of exemption relief, based on income.

(1) If the disposable income of the applicant's household is below $26,000 a year, the residence is exempt from all excess or special levies.

(2) If the disposable income of the applicant's household is below $18,000 a year, but not less than $15,000, the residence is exempt from all excess or special levies and is exempt from regular levies on the greater of $30,000 or 30 percent of the assessed value, but not exceeding $50,000 of value.

(3) If the disposable income of the applicant's household is below $15,000 a year, the residence is exempt from all excess or special levies and is exempt from regular levies on the greater of $34,000 or 50 percent of the assessed value.

Eligible persons apply for relief during the calendar year before taxes are due. The applicant must provide evidence of income from the year before the year of application. This requirement results in a two year delay between the year for which income is measured and the year in which the exemption is received.

Summary: The $26,000 annual income threshold for the senior citizen and disabled person property tax exemption is increased to $28,000.

For seniors and disabled persons with disposable annual incomes of $28,000 or less, the annual change in taxable value of their residences is limited to the percentage change used by the federal government in adjusting social security payments.

Income from the application year, rather than the year preceding the application, is used when applying for property tax relief. For example, a person applying in December of 1995, will use estimated income for 1995 for tax relief that begins with tax payments due in 1996.

An applicant for tax relief must occupy the residence at the time of filing for tax relief.

Votes on Final Passage:

House	83	14	
Senate	48	0	(Senate amended)
House			(House refused to concur)

First Special Session

Conference Committee

Senate	37	7
House	82	8

Effective: The act takes effect July 1 of the year in which specific funding is provided in the appropriations act and is first effective for taxes levied for collection in the following year.

SHB 2671

C 2 L 94 E1

Reducing gross receipts taxes for small businesses.

By House Committee on Revenue (originally sponsored by Representatives G. Fisher, Foreman, Holm, Mastin, Kremen, Roland, Kessler, Dellwo, Karahalios, Chappell, Conway, R. Johnson, J. Kohl, Patterson, Finkbeiner, Springer, Brown, Dunshee, Shin, Campbell, Dorn, Lemmon, Bray, R. Meyers, Basich, Johanson, Pruitt, Ogden, Wolfe, Sheldon, Caver, Quall, Jacobsen, Jones, Romero, Moak, Valle, H. Myers, King, Cothern, Morris, Backlund, Van Luven, Rayburn, Long, L. Johnson and Anderson).

House Committee on Revenue
Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation tax (B&O tax). This tax is imposed on the gross receipts from all activities in which a business engages for profit, except specific activities and types of income exempted from the tax. Deductions for the costs of doing business are not allowed. Businesses with gross incomes less than $1,000 per month are not subject to tax. Businesses with gross incomes greater than this threshold are subject to tax on their entire gross incomes.

Summary: The business and occupation tax threshold exemption is replaced by a credit against tax due. The maximum amount of credit is $35 per month. The credit is phased out dollar-for-dollar by the amount the B&O tax liability exceeds the maximum credit amount. The $35 credit offsets any tax liability of $35 or less. If tax liability is more than $35 and less than $70, the credit is equal to $70 minus the initial tax liability. For example, if the initial liability is $50, the credit is $20 ($70 minus $50) and the net tax due is $30 ($50 minus $20). If tax liability exceeds $70 (twice the maximum credit), the credit is zero and the full amount of tax is due.

Votes on Final Passage:

House	83	3	
Senate	46	1	(Senate amended)
House			(House refused to concur)

First Special Session

Conference Committee

Senate	41	4
House	91	2

Effective: July 1, 1994

ESHB 2676

PARTIAL VETO

C 9 L 94 E1

Restructuring boards, committees, commissions and councils.

By House Committee on Appropriations (originally sponsored by Representatives Dunshee, Reams, Anderson, Patterson, Bray, R. Meyers, Basich, Johanson, Pruitt, Ogden, Wolfe, G. Cole, Moak, Valle, H. Myers, Kremen, Silver, Kessler, Conway, Cothern, Morris, Rayburn and J. Kohl; by request of Governor Lowry).

House Committee on Appropriations
Senate Committee on Government Operations

Background: In the 1991-93 biennium, the state had 569 operating boards and commissions. The Office of Financial Management reports that while many of the boards and commissions are funded through member fees, state agency management of the boards and commissions has significant indirect costs.

Summary: Thirty general government boards, councils and commissions are abolished. Twelve health boards and commissions are consolidated into five quality-assurance commissions or councils. An additional seven health boards and advisory committees are consolidated into one advisory committee. The Traffic Safety Commission is abolished and its duties are transferred to the Washington State Patrol. The total number of health boards, commission, and council members is reduced from 228 to 181.

The Governor will review the necessity of all boards and commissions and submit legislation that consolidates or abolishes those that do not meet a specified criteria.

Votes on Final Passage:

House	97	0	
Senate	45	3	(Senate amended)

First Special Session

House	90	0	
Senate	43	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 1, 1994

Partial Veto Summary: The sections that abolished the Traffic Safety Commission and transferred the duties and funds of the commission to the Washington State Patrol were vetoed by the Governor. The Traffic Safety Commission is not abolished.

VETO MESSAGE ON HB 2676-S

April 6, 1994

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 878 through 903, Engrossed Substitute House Bill No. 2676, entitled:

"AN ACT Relating to the restructuring of boards, committees, commissions, and councils;"

Engrossed Substitute House Bill No. 2676 eliminates and consolidates 49 boards and commissions. Sections 878 through 903 of the bill would abolish the Washington Traffic Safety Commission and transfer its functions to the Washington State Patrol. While I generally favor consolidating small single purpose commissions into larger agencies for efficiency purposes, I am not convinced this particular merger is advisable at this time.

Any merger of these functions should consider alternatives that balance opportunities for more efficient administration of grant funds, fair and equitable grant distribution, program effectiveness, and active involvement and support of the traffic safety community. To ensure that these factors are evaluated in any future decision regarding the location of traffic safety functions, I have directed the Office of Financial Management to work with the Traffic Safety Commission, the legislature, and the traffic safety community to review organizational alternatives for traffic safety functions. This review will be conducted as part of our overall evaluation of boards and commissions required by sections 872 through 876 of Engrossed Substitute House Bill No. 2676.

With the exception of sections 878 through 903, Engrossed Substitute House Bill No. 2676 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESHB 2688

PARTIAL VETO

C 237 L 94

Modifying the duties and responsibilities of sellers of travel.

By House Committee on Commerce & Labor (originally sponsored by Representatives G. Cole and King; by request of Attorney General).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor & Commerce
Senate Committee on Ways & Means

Background: In 1989 the Department of Licensing, in response to a request by the House Commerce & Labor Committee, conducted a sunrise review of the travel industry. The department made the following recommendations:

(1) that all travel firms be required to register with the state;
(2) that a financial analysis of the impact of trust accounts be undertaken to determine whether a trust account regulation would produce a significant number of business failures in the travel industry;
(3) that all travel firms be included under the provisions of the Travel Charter and Tour Operators Act requiring a written disclosure to customers; and
(4) that investigation and enforcement of existing fair business practice regulations be enhanced to produce a deterrent impact on fraudulent practices in the travel industry.

Washington has a statute regulating travel charter and tour operators. The statute specifically exempts travel agents from its coverage. The statute contains such provisions as: advertising restrictions; written disclosure requirements; a right to cancellation and refund in case of a material misrepresentation; and a trust account or bond requirement. However, a travel charter or tour operator need not comply with the trust account or bond requirement if a written agreement to provide full service in the event of default exists between the travel charter or tour operator and another travel charter or tour operator business that meets certain minimum standards.

Summary: Beginning January 1, 1996, the statute regulating travel charter or tour operators is expanded to apply to sellers of travel. A "seller of travel" includes a person, firm or corporation that transacts business with Washington consumers, including a travel agency that sells, provides, furnishes contracts for, arranges or advertises to arrange for any travel services. "Seller of travel" does not include any common carrier or any affiliate of a carrier if the affiliate is primarily engaged in selling travel services provided by the carrier.

Registration requirement. Sellers of travel must be registered with the Department of Licensing. Registration numbers must be conspicuously posted in the place of business and in all advertisements. However, certain large corporations who issue stock and any corporation whose stock is listed on a national securities exchange and their subsidiaries are exempted from the requirement of including their registration number on their advertisements and listing all employees on their registration application.

Registrations are not assignable or transferable and must be renewed every two years.

Applications. Applications for registration must be in the form prescribed by the director and must include certain listed information, including: (1) name, address and phone number; (2) proof of a valid business license; (3)

verification that the seller of travel maintains the required trust account; (4) the required registration fee; and (5) the name, address and phone numbers of all employees covered by the registration unless the applicant is exempted from this requirement.

Denial, suspension, or revocation of registration. The director may deny, suspend or revoke the registration of a seller of travel if the applicant for registration or renewal: (1) was previously the holder of a revoked or suspended registration and is not entitled to reinstatement; (2) has been found guilty of a felony involving moral turpitude, a misdemeanor concerning fraud or conversion, or a civil judgment involving willful fraud, misrepresentation, or conversion; (3) has made a false statement of material fact in an application; (4) has violated the law applying to sellers of travel or rules adopted under that law; (5) has failed to display the registration as required; (6) has published a misleading or fraudulent statement; (7) has committed a fraudulent practice in the operation of a travel business; or (8) has aided or abetted another person's unregistered practice. The director may revoke the registration of a seller of travel after a violation of the law applying to sellers of travel or the Consumer Protection Act.

Consumer indemnification. The department must examine the possible establishment of a cost recovery fund, surety bond, or other requirement to indemnify consumers. The department must report on the study to the Legislature by December 1, 1994.

Trust account requirement. Within five business days of receipt, a seller of travel must deposit all sums received for travel services in a trust account maintained in a federally-insured financial institution in Washington. This does not apply, however, to airline sales when payments are made through the airline reporting corporation either by cash or credit card sale. The seller of travel may not encumber the amount in the account or withdraw money from the account, except for the following purposes: (1) partial or full payment to the provider; (2) refunds as required by law; (3) the amount of the sales commission; (4) interest earned and credited to the trust account; or (5) remaining funds of a purchaser once all travel services or tickets have been provided. If the seller of travel maintains its principal place of business in another state, maintains a trust account in that state and has transacted more than $5 million worth of business in Washington in the preceding year, the out-of-state trust account may be substituted for the required in-state trust account.

Advertising. Sellers of travel must include their registration number in all advertisements. A seller of travel may not advertise that travel services are available unless he or she has determined that the services advertised are available at the time the advertisement is placed. The seller of travel must maintain written documentation for at least two years of the steps taken to verify that the advertised offer was available at the time of the advertisement.

Disclosure to customers. At the time of booking, a seller of travel must provide to each customer the following information: (1) the seller's name and business address; (2) the amount paid, date of payment, purpose of payment and an itemized statement of the balance due; (3) the seller's registration number; (4) the travel vendor or provider's name and all pertinent information known at the time; (5) conditions for cancellation; and (6) a specified statement of the customer's right to a refund if the services are not performed in conformance with the contract.

Cancellation and refund. If the services contracted for are canceled, the seller must refund the money due to the customer within 30 days of receiving the funds from the vendor or within 14 days if the funds were not yet forwarded to the vendor. Any material misrepresentation about the services offered is deemed to be a cancellation. If the services are paid for by credit card, any refund to the credit card must be applied for within 10 days from the cancellation. The seller of travel need not refund cancellation penalties imposed by the vendor if the penalties were disclosed to the customer in the disclosure statement.

Director's powers and duties. The director has the following powers and duties: (1) to adopt, amend and repeal rules; (2) to issue, renew and deny registrations; (3) to suspend or revoke registrations; (4) to establish fees; (5) to inspect and audit books and records relating to the trust account and bond requirements; and (6) to do all things necessary to carry out the purposes of the act.

The director may, in his or her discretion: (1) conduct investigations; (2) publish information concerning violations of the law applying to sellers of travel; and (3) investigate complaints concerning practices by sellers of travel for which registration is required. The director may administer oaths, subpoena witnesses, require the production of documents and issue cease and desist orders. The director also may assess against a person who violates the law applying to sellers of travel, a civil penalty of not more than $1,000 per violation and restitution.

Injunctions. The attorney general, a county prosecuting attorney, the director or any other person as authorized by law may maintain an action in the name of the state to enjoin a person selling travel services for which registration is required from engaging in the practice until the registration is secured. A person who violates an injunction issued under this act must pay a civil penalty of up to $25,000.

Service of process on out-of-state sellers of travel. The director is deemed to be the agent of a nonresident seller of travel for the purpose of service of process.

Criminal penalties. It is a gross misdemeanor to knowingly violate the law applying to sellers of travel or knowingly give false or incorrect information to the director, attorney general or county prosecuting attorney in statements required to be filed under that law. It is a misdemeanor to violate that law if knowledge is not proven.

Public disclosure. All information, documents and reports filed with the director under the law applying to sellers of travel are matters of public record and are open to public inspection, subject to reasonable regulation.

Consumer protection act. A violation of the law applying to sellers of travel is deemed to be a violation of the Consumer Protection Act.

Votes on Final Passage:

House	57	37	
Senate	28	20	(Senate amended)
House	53	43	(House concurred)

Effective: June 9, 1994
January 1, 1996 (Sections 1-29)

Partial Veto Summary: The Governor's partial veto removes the section of the bill requiring the Department of Licensing to examine various alternatives to indemnify travel consumers and to report its findings to the Legislature by December 1, 1994.

VETO MESSAGE ON HB 2688-S

April 1, 1994

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, Engrossed Substitute House Bill No. 2688 entitled:

"AN ACT Relating to sellers of travel;"

Section 7 requires the Department of Licensing to examine various alternatives to indemnify travel consumers and to report its findings to the Legislature by December 1, 1994. However, section 33 establishes an effective date for the bill of January 1, 1996, thereby defeating the possibility of completing the study within the time frame established in section 7. Although I am vetoing section 7, I am directing the Department of Licensing to conduct the study and to report to the Legislature prior to the start of the next Legislative Session.

With the exception of section 7, Engrossed Substitute House Bill No. 2688 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESHB 2696

C 265 L 94

Developing procedures and criteria for chemically related illness.

By House Committee on Commerce & Labor (originally sponsored by Representatives Flemming, Heavey, Backlund, Veloria, Thibaudeau, Campbell, Valle, Wineberry, Holm, Roland, Johanson, Pruitt, J. Kohl, Jones, L. Johnson, King, Karahalios, Conway and Springer).

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

Background: Workers may be exposed to a variety of chemicals in both workplace and nonwork settings. Many exposures lead to well-defined and accepted diagnoses, such as contact dermatitis. However, among researchers and the medical community there is disagreement about the effects of other exposures.

To provide guidance for the management of industrial insurance claims that include exposure to chemicals, the Department of Labor and Industries developed an interim plan in conjunction with several state agencies. In addition, the department has begun a review of complex chemically related illness claims and has created a special claims unit for these cases.

Summary: By July 1, 1994, the Department of Labor and Industries must establish interim criteria and procedures to ensure consistent and fair adjudication of claims involving chemically related illness. The final criteria and procedures must be adopted by December 31, 1994. The department must assign claims managers with special training or expertise to manage claims that are determined to require expert management.

An advisory committee is established to consult with and advise agencies on issues related to chemically related illness. The two lead agencies are the Department of Labor and Industries and the Department of Health. Members of the advisory committee include representatives of injured workers with chemically related illness, organized labor, state fund and self-insured employers, the Department of Labor and Industries, the Department of Health, and physicians and osteopathic physicians. The committee will review the responsibilities of the agencies for providing services to persons with chemically related illness. The committee terminates on June 30, 1995.

The Department of Labor and Industries is directed to work with the Department of Health to establish one or more centers for research and clinical assessment of chemically-related illness. The department is also directed to conduct research on chemically-related illness which will include contracting with recognized medical research institutions. The department will develop an implementation plan based on sound scientific research criteria and submit the plan to the Workers' Compensation Advisory Committee. Specific research proposals will be submitted for review to the committee, and a scientific advisory committee will provide oversight of the research projects. A regional research project is encouraged. The research will be funded with appropriations from the medical aid fund, with the state fund and self-insured employers paying a pro rata share based on worker hours. Self-insurers may deduct one-half of their cost from their employees' pay.

In consultation with the Workers' Compensation Advisory Committee, the Department of Labor and Industries and the Department of Health must make a joint interim report by December 31, 1994, and a final report by June 30, 1995, to the Governor and Legislature on the status of

the criteria and procedures for management of chemically-related illness claims, research projects, other initiatives related to chemically related illness and any recommendations for legislation. Included in the report will be a plan to include occupational information in the automated health data bases and a plan to make occupational diseases reportable conditions.

Votes on Final Passage:

House	76	18	
Senate	32	14	(Senate amended)
House	73	21	(House concurred)

Effective: June 9, 1994

ESHB 2699

C 3 L 94 E1

Creating a youthbuild violence prevention program.

By House Committee on Trade, Economic Development & Housing (originally sponsored by Representatives Wineberry, Forner, J. Kohl, Schoesler, Appelwick, Long, Thibaudeau, Ballasiotes, Lemmon, L. Johnson, Campbell, Valle, Basich, Pruitt, Rayburn, Flemming, Kremen, Sheldon, Karahalios, Conway, Springer and Quall).

House Committee on Trade, Economic Development & Housing
House Committee on Appropriations

Background: Washington is facing a crisis in rising levels of violence being committed by and against youth. The problem is not limited to the state's large urban areas, but occurs in small cities and rural areas. The phenomenon of violence in our culture stems from a complex web of contributing factors that include a lack of educational and economic opportunities for youth.

On the national level, approximately 14 cities and the state of Minnesota are implementing programs designed to address the lack of educational and economic opportunities for disadvantaged youth. These "Youthbuild" programs provide education, specialized job training, work experience, and leadership skills for disadvantaged youth who have not completed high school.

Summary: The Washington Youthbuild Program is created in the Employment Security Department. The program will provide basic educational skills to disadvantaged youths while they work on projects that result in the expansion or improvement of residential units for low-income or homeless persons.

The Employment Security Department may provide grants to local organizations to implement a comprehensive program of education, specialized job training, support services, leadership and employment skills to disadvantaged youths. The program is limited to organizations eligible to provide education and employment training under federal or state law.

The Washington Youthbuild Program grant amounts may not exceed the lesser of $300,000 or 25 percent of the total project costs. The grant funds are limited to: (1) education and job skills services and activities designed to meet the needs of the participant; (2) counseling services and related activities; (3) supportive services and need-based stipends to participants; (4) activities designed to develop employment and leadership skills; and (5) wage stipends and benefits to participants.

A Washington Youthbuild Program participant must be: (1) 16 to 24 years of age, inclusive; (2) a member of a household with an income that is below 50 percent of the county median income; and (3) a high school dropout.

The Washington State Job Training Coordinating Council will provide advice on the development and implementation of the Washington Youthbuild Program.

Votes on Final Passage:

First Special Session		
House	93	1
Senate	36	5

Effective: June 13, 1994

EHB 2702

C 101 L 94

Concerning public improvement bonds' retainage level.

By Representatives Brown, Orr and Padden.

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

Background: If the state, or a county, city, town, district, board or other public entity awards a public works contract, the awarding entity must reserve a contract retainage of no more than 5 percent of the money earned by the contractor as a trust fund. The trust fund provides payment for claims arising under the contract and for state excise taxes that may be due from the contractor. Persons performing labor or furnishing supplies also may obtain a lien on the money reserved by the awarding entity.

A contractor may submit a bond for all or part of the retainage if the awarding entity authorizes a bond. If a bond is submitted, it must be in a form acceptable to the awarding entity. The bond is subject to the claims and liens arising under the contract in the same manner as the retainage is subject to the claims and liens.

Summary: The requirement is deleted that a public entity awarding a public works contract must consent before a contractor is permitted to provide a bond in lieu of retainage under the contract. However, the bond must be in a form acceptable to the awarding entity and must be from a bonding company that meets standards established by the awarding entity. The awarding entity must accept a bond

meeting these requirements, unless the awarding entity can demonstrate good cause for refusing to accept it.

Votes on Final Passage:

House 94 0
Senate 47 0

Effective: June 9, 1994

SHB 2707

C 179 L 94

Revising transportation improvement funding procedures.

By House Committee on Transportation (originally sponsored by Representatives R. Fisher and Johanson; by request of Transportation Improvement Board).

House Committee on Transportation
Senate Committee on Transportation

Background: The Transportation Improvement Board (TIB) provides grants for transportation projects in urban areas and rural cities through its transportation improvement account (TIA), urban arterial trust account (UATA), and city hardship assistance account programs. TIB makes recommendations to the Legislature on requests to transfer the jurisdiction of any state, county or city road.

The UATA was created to fund projects to reduce congestion on Washington's urban arterial roads and streets. The program is funded by 1.53 cents of the gas tax. Counties with urban areas and urban and rural cities are eligible for UATA funding. The state is divided into five regions, and funds are apportioned to the regions based on population, vehicle miles traveled, and needs. All administrative costs of the TIB are paid from the UATA. Value engineering studies are required for UATA projects with a cost of $1 million dollars or more. Cities and counties eligible for UATA funds are directed to establish a system of bicycle routes throughout their jurisdictions.

The TIA was established in 1988 to address economic development and population growth in urban areas and is funded with 1.5 cents of gas tax. Eighty-seven percent of TIA funding is allocated for urban projects in counties, cities of over 5,000 population, and transportation benefit districts. Thirteen percent of TIA funds are allocated to cities with a population of 5,000 or less.

Each year, cities and counties containing an urban area are required to submit six-year road funding programs to the TIB. Growth management legislation requires a six-year transportation element within local and comprehensive plans.

For TIB purposes, federal definitions for arterials and urban areas are used.

The state Transportation Commission requests bond issuance, sales, or retirement by the State Finance Committee on behalf of TIB.

Summary: A small city account (SCA) program that combines funding and programs contained in the TIA and the UATA programs is created.

Costs currently charged to the UATA are distributed between all four TIB grant programs.

The TIB six-year program requirements are revised to be consistent with the Growth Management Act.

Descriptions of intent for the UATA and SCA programs are added and the intent for the TIA program is revised.

The Department of Transportation is to determine the definition of "arterial" and "urban area" in cooperation with TIB and other agencies.

Language regarding distribution of UATA funds is removed. TIB is given rule-making authority regarding geographical distribution of UATA and SCA funds.

TIB is directed to adopt rules and procedures to encourage the development of bicycle route systems within local jurisdictions.

The requirement that a value engineering study be completed for projects costing $1 million or more is deleted. TIB is directed to develop rules regarding value engineering studies.

The TIB may request the State Finance Committee to issue, sell or retire TIB bonds. TIB must notify the Transportation Commission of bond sales requests.

Votes on Final Passage:

House 96 0
Senate 40 0

Effective: June 9, 1994

SHB 2718

C 137 L 94

Excepting utility-related real estate tax affidavits from certain verification requirements.

By House Committee on Revenue (originally sponsored by Representatives G. Fisher, Fuhrman, Foreman, Brown, Bray and Kremen).

House Committee on Revenue
Senate Committee on Ways & Means

Background: The real estate excise tax is paid when real property is sold. The tax rate is 1.28 percent of the selling price. Most local governments impose an added rate of 0.25 percent. Additional local options are available.

Both the buyer and the seller are required to sign a real estate excise tax affidavit when a taxable transaction occurs. The seller must give the affidavit and pay the tax to the county treasurer.

Summary: When a gas, electrical or telecommunications company acquires an easement, only the company is re-

quired to sign the real estate excise tax affidavit. The seller's signature is not required.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: June 9, 1994

ESHB 2737

C 238 L 94

Modifying provisions regarding the Washington Economic Development Finance Authority.

By House Committee on Capital Budget (originally sponsored by Representatives Wineberry, Sheldon, Schoesler, Shin and Springer; by request of Department of Trade and Economic Development).

House Committee on Trade, Economic Development & Housing
House Committee on Capital Budget
Senate Committee on Trade, Technology & Economic Development

Background: The Legislature created the Washington Economic Development Finance Authority (WEDFA) to help meet the capital needs of small and medium-sized businesses. WEDFA may issue nonrecourse revenue bonds to carry out its programs, which may be issued on either a tax-exempt or taxable basis. These bonds are not obligations of the state of Washington. WEDFA is also prohibited from lending the state's credit.

WEDFA is authorized to: (1) develop programs to fund export transactions for small businesses that cannot get commercial loans from private lenders at competitive rates and terms; (2) provide advance or up-front financing for economic development to farmers based on their subsidy from the federal government for not growing crops; and (3) pool loans guaranteed by the federal government.

WEDFA consists of 18 members appointed by the Governor. The membership includes the state treasurer, the director of the Department of Trade and Economic Development, the director of the Department of Community Development, the director of the Department of Agriculture, a member from each of the four major legislative caucuses, and 10 citizen members. The members serve without compensation.

WEDFA is required to develop a plan that outlines its economic development goals and to define the strategies to achieve these goals. The plan must be updated at least once every two years.

Summary: The Washington Economic Development Finance Authority is authorized to develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs of not more than five economic development activities per year. WEDFA may not issue bonds after June 30, 2000.

"Economic development activities" means manufacturing, processing, research, production, assembly, tooling, warehousing, pollution control, energy generation, energy conservation, energy transmission, sports facilities, and industrial parks.

"Project costs" that can be financed by nonrecourse revenue bonds include: acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity.

Other project costs that can be financed by nonrecourse revenue bonds include: architectural, engineering, consulting, accounting, and legal costs directly related to the development, financing, acquisition, lease, construction, extension, and enlargement of an economic development activity, including costs of studies assessing the feasibility of an economic development activity.

In addition, nonrecourse revenue bonds may be used to finance start-up costs, working capital, capitalized research and development costs, capitalized interest during construction and 18 months after the estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves. Finance costs are also considered to be project costs including the costs of credit enhancement and discounts, the costs of issuing revenue bonds, the costs incurred in carrying out any financing document, the refunding of any outstanding obligations incurred for any project costs, and other costs incidental to any project costs.

WEDFA is authorized to conduct a program to stimulate the development of new products by giving financial assistance to persons for the development of inventions and products where assistance is not otherwise available. WEDFA would condition this assistance upon contractual assurances that the benefits of increased employment and tax revenues would remain in the state. WEDFA may also take license in patents and copyright and establish charges for their use when it provides assistance. In reviewing applications for assistance, priority will be given to businesses that are resource-based or advanced technology.

WEDFA must send annual reports to the appropriate standing committees of the Legislature.

Votes on Final Passage:

House	96	2	
Senate	41	8	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
Senate	41	4	(Senate amended)
House	89	6	(House concurred)

Effective: April 1, 1994

ESHB 2741

PARTIAL VETO

C 239 L 94

Coordinating watershed-based natural resource planning.

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Linville, Pruitt, King, Rust, Valle, R. Johnson, Roland, Rayburn, R. Meyers, J. Kohl, Kremen, L. Johnson and Karahalios).

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

Background: A number of federal, state, and local government agencies, tribes, individuals, and organizations are exploring natural resource management issues using watersheds as the unit of management. A survey of significant watershed-based activity compiled this fall by the Governor's office indicates that there are several hundred such watershed-based efforts going on in the state.

Summary: The Watershed Coordinating Council is created, comprised of the Commissioner of Public Lands or the commissioner's designee, and the director or designee from the following departments: Transportation; Agriculture; Ecology; Fish and Wildlife; Health; Community, Trade and Economic Development; the Interagency Committee for Outdoor Recreation; the Puget Sound Water Quality Authority; and the Conservation Commission. The council is to coordinate state agency watershed planning and implementation activities. The council will also coordinate its activities with federal, local, and tribal governments. The council expires in June 1997.

By December 15, 1994, the Watershed Coordinating Council is to provide to the Legislature a summary of all state agency watershed programs and recommendations on the following: a definition of the geographical unit for watershed planning and implementation processes; common protocols for data collection and analysis; the availability of data on the condition of the state's watersheds; ways to overcome barriers to state agency cooperation in watershed planning and implementation; ways to minimize duplication and overlap and to improve efficiency in watershed planning and implementation; and new sources of funding and reallocation of existing funding for watershed planning and implementation activities.

The Watershed Policy Task Force is also created and directed to complete the following tasks: development of goals and measurable objectives for watersheds in the state; identification of strategies for establishing and funding locally or regionally based watershed planning and implementation activities to help achieve these goals and objectives; identification of barriers to cooperation and possible incentives to encourage various entities to participate in watershed planning and implementation; recommendations for integration of state watershed planning and implementation with local land use planning; and recommendations for coordination with student and citizen watershed protection efforts. Members of the task force come from the Watershed Coordinating Council, the House of Representatives, the Senate, and various interest groups. The task force is to complete its tasks and report to the Legislature by December 1995. The task force expires in June 1996.

Votes on Final Passage:

House	95	0	
Senate	42	4	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	46	0
House	94	0

Effective: June 9, 1994

Partial Veto Summary: The partial veto removes the section in the bill creating and assigning tasks to the Watershed Policy Task Force. The veto message indicates that a forthcoming executive order will direct the Watershed Coordinating Council to assume many of the duties originally assigned to the task force.

VETO MESSAGE ON HB 2741-S

April 1, 1994

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, Engrossed Substitute House Bill No. 2741 entitled:

"AN ACT Relating to coordinated, watershed-based natural resource planning;"

Increasingly, attention is being given to watersheds as a basis for natural resource management and environmental protection. While the term "watershed" connotes comprehensiveness, much of the natural resources planning, implementation, and restoration work in state watersheds is done in a piecemeal, uncoordinated basis often based on functional interest or land ownership. This lack of coordination is a problem, and the legislature is to be applauded for its attempt to deal with this problem through the provisions in Engrossed Substitute House Bill No. 2741. It is a concern I share.

Section 5 of Engrossed Substitute House Bill No. 2741 establishes a watershed policy task force charged with making recommendations to the legislature on statewide goals and objectives for watershed planning and implementation efforts and facilitating watershed planning and implementation efforts on a local level. Section 3 of Engrossed Substitute House Bill No. 2741 establishes the watershed coordinating council. While the majority of tasks set out for the watershed policy task force are important, the task force itself unnecessarily duplicates the watershed coordinating council established in section 3. For this reason, I am vetoing section 5 of Engrossed Substitute House Bill No. 2741, and by Executive Order, I will ask the watershed coordinating council established by this bill to perform the functions listed in section 5(2) (b), (c), (d), and (e) of Engrossed Substitute House Bill No. 2741.

Section 5(a) requires the task force to develop recommendations for goals and measurable objectives for watersheds on a statewide basis. There are many initiatives currently underway attempting to establish goals and objectives on a local watershed-by-watershed basis. This is an extremely difficult and time-consuming process, but goals and objectives must be established on a local watershed-by-watershed basis if they are to be real and meaningful. For this reason, I am also asking the water-

shed coordinating council to identify those watersheds where goals and objectives have already been established and to provide recommendations to facilitate the development of goals and objectives for the state's other watersheds.

For the purpose of these section 5 tasks to be performed by the watershed coordinating council, the council should work with an advisory committee consisting of interested parties including tribes, affected landowners, the timber industry and the environmental community.

With the exception of section 5, Engrossed Substitute House Bill No. 2741 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

HB 2743

C 180 L 94

Changing provisions relating to health services provided by school districts.

By Representatives Sommers, Silver, Dorn and King; by request of Superintendent of Public Instruction and Office of Financial Management.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The state provides funding to school districts for services to students with disabilities. School districts, in turn, provide special education and health services to students with disabilities. Many of the health services qualify for Medicaid reimbursement if the student is eligible for Medicaid.

The 1993 Legislature established a program requiring school districts to seek Medicaid reimbursement for covered services to eligible students. The purpose of the program is to use federal Medicaid funds to partially offset the state's increasing costs for education programs for students with disabilities. The 1993-95 budget projected $14.4 million in savings to the state from school district participation in this program.

As an incentive for participation in the program, school districts are allotted 20 percent of the federal Medicaid moneys after billing costs are deducted. The 20 percent district share may be spent for any purpose. The state retains 80 percent of the federal Medicaid moneys after billing costs are deducted.

The process used to allocate state and federal Medicaid funds for each school district is complex compared to some other states. In this state, initial allocations are made to a school district based on enrollment of students with disabilities. Upon receipt of Medicaid funds by a school district, the state recovers state funds in the amount of 80 percent of the federal portion of the Medicaid funds less the billing agent's fees. Various other states use a less complex method. The method involves establishing a revolving fund to disburse the respective shares of Medicaid funds to the state and school districts. This avoids having to take back state funds upon receipt of federal Medicaid funds.

The 1993 legislation provided for the hiring of a state billing agent to enroll all districts in the program and to aid districts in securing the federal Medicaid funds. For districts enrolled with the state billing agent, the state and federal shares of Medicaid funds are calculated after deducting for the state billing agent's costs.

A school district may act as its own billing agent and retain billing costs in an amount proportional to that charged by the state billing agent. Districts having contracted with a private contractor prior to April 30, 1993, could continue to use the services of the private contractor. The 80 percent state share of the federal Medicaid funds is calculated after the private contractor's billing fee is deducted.

Under current law, school districts are the only entities authorized to bill for Medicaid funds. Educational service districts or educational cooperatives which provide services to students with disabilities in many parts of the state are not authorized to bill for Medicaid funds.

Medicaid eligibility data in each school district is to be reported through educational service districts and then to the Superintendent of Public Instruction and the state billing agent.

Current law also authorizes school districts to bill an individual student's health insurance carrier if the student's parent or guardian consents.

Summary: For purposes of the act, "district" is defined as including a school district, educational service district or educational cooperative. The requirements and authorizations that the 1993 law imposed on school districts are extended to educational service districts and educational cooperatives.

Districts contracting with a private contractor may retain a billing fee equivalent to that of the state billing agent.

Districts must report Medicaid eligibility data to the Superintendent of Public Instruction (SPI).

The 20 percent local share of federal Medicaid funds must be spent for children with disabilities.

State and federal moneys received under Title XIX for medical services provided by districts shall be initially channeled to the SPI. The SPI shall disburse funds as follows: (a) reimbursement to the Department of Social and Health Services for the state-funded portion of Medicaid; (b) payment of the state billing agent's fees or the equivalent for a district acting as its own billing agent or using a private contractor; and (c) payment of the 20 percent local share after billing fees are deducted.

Votes on Final Passage:

House	94	0	
Senate	49	0	(Senate amended)
House	89	0	(House concurred)

Effective: June 9, 1994

HB 2750

C 27 L 94

Changing provisions relating to joint operating agencies.

By Representatives Long, Bray, Kessler, Johanson, Chandler, Finkbeiner, Kremen and Caver.

House Committee on Energy & Utilities
Senate Committee on Energy & Utilities

Background: Publicly-owned electric utilities in the state may form a joint operating agency (JOA) to construct and operate an electric generating facility or to engage in energy efficiency projects. A JOA which is constructing or operating a nuclear power plant may enter into a contract through competitive negotiation to replace a defaulted or terminated contract or in situations where consideration of factors in addition to price, such as technical knowledge and experience, is necessary for the economical operation of the plant.

A competitively negotiated contract may only be entered after a request for proposals is issued and a pre-proposal conference is held. The JOA must execute the contract with the responsible offeror whose proposal is determined to be most advantageous to the JOA.

Currently, the economic impact on the state is not among the factors delineated for the JOA to consider in its evaluation of contract proposals.

Summary: A joint operating agency constructing or operating a nuclear power plant which seeks to enter into a competitively negotiated contract shall execute a contract with the responsible offeror whose proposal is determined to be most advantageous to the joint operating agency and to the state.

Votes on Final Passage:

House	95	0	
Senate	48	0	

Effective: June 9, 1994

SHB 2754

C 240 L 94

Authorizing use of closed circuit television in court procedural hearings.

By House Committee on Judiciary (originally sponsored by Representatives McMorris, Appelwick, Padden, Campbell, Schoesler, Johanson, Foreman, Mielke, Finkbeiner, Fuhrman, Mastin, Wineberry, Sheahan, L. Thomas, Cooke, Brough and Springer).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: To ensure that a procedural hearing is conducted in a timely and secure manner, a court may need or want to conduct a procedural hearing in one location when the defendant is located in another location. Some courts have used closed circuit television or other electronic equipment to conduct procedural hearings. The Office of the Administrator for the Courts is the administrative arm of the courts and examines administrative methods and systems employed by the courts.

Summary: The Office of the Administrator for the Courts, under the direction of the chief justice, is directed to authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator must establish standards and procedures and provide technical assistance to the courts.

Votes on Final Passage:

House	95	0	
Senate	46	1	(Senate amended)
House	90	0	(House concurred)

Effective: June 9, 1994

SHB 2760

C 241 L 94

Authorizing sales tax equalization for transit systems.

By House Committee on Transportation (originally sponsored by Representatives R. Fisher, Zellinsky, Schmidt, Wood, Sheldon, R. Meyers, Jones, Sehlin and Kessler).

House Committee on Transportation
Senate Committee on Transportation

Background: Transit agencies are authorized to impose, with voter approval, a sales tax of up to 0.6 percent within their district. Of the 24 transit agencies in the state, 22 collect sales tax of from 0.1 percent to 0.6 percent.

Transit agencies also are eligible to receive revenue out of motor vehicle excise tax (MVET) revenues. The amount received is equal to one of the following, whichever is less: (1) 0.725 percent of vehicle value collected as MVET within the boundaries of the transit district, or (2) the amount of local revenue, generally sales tax, collected specifically for the transit agency.

The difference between what an agency could match at 0.815 percent MVET and what can be matched at 0.725 percent MVET is placed in one of two transit accounts: the Central Puget Sound public transportation account (CPSPTA) for transit districts in King, Pierce, Snohomish and Kitsap counties, and the public transportation systems account (PTSA) for districts in any other county.

An amount equivalent to 4.5 percent of the 0.725 percent MVET available to transit agencies in King, Pierce, Snohomish, Thurston, Clark, Kitsap, Yakima and Spokane counties is placed in the high capacity transportation account (HCTA).

The difference between the 0.815 percent MVET and the amount of MVET collectively going to the transit

agency, the CPSPTA, the PTSA and the HCTA is referred to as the transit residual. The transit residual is deposited in the general fund. Effective July 1, 1995, the transit residual will be deposited in the transportation fund.

Cities and counties receive sales and use tax equalization payments out of MVET revenues.

Summary: Effective with distributions to transit agencies on January 1, 1996, sales and use tax equalization payments are made to transit agencies whose weighted average per capita sales and use tax collections were less than 80 percent of the overall statewide average during the preceding calendar year. Transit equalization is paid from MVET revenues and deducted from the transit residual. The amount of equalization paid to a transit agency is not restricted by the 0.725 percent MVET limit. Equalization payments to an agency are limited to 50 percent of their previous year's transit sales and use tax collections. For newly established transit agencies and existing agencies imposing the transit sales tax after January 1, 1995, equalization payments are prorated by the number of months the agency has collected sales and use tax. A transit agency that decreases its sales and use tax rate after January 1, 1994, is not eligible for equalization payments.

Votes on Final Passage:

House	66	28	
Senate	35	12	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	35	10	
House	89	6	

Effective: June 9, 1994

SHB 2771

C 28 L 94

Allowing permits for practice fire suppression.

By House Committee on Local Government (originally sponsored by Representatives Chappell, Brumsickle, Chandler, Sehlin, Hansen, L. Thomas, McMorris, Fuhrman, Dyer, Schoesler, Sheahan, Holm and Basich).

House Committee on Local Government
Senate Committee on Ecology & Parks

Background: Both the federal and state governments have Clean Air Acts regulating air pollution.

Under the state Clean Air Act, an active air pollution control authority is created in every county with a population of 125,000 or more, and an inactive air pollution control authority is created in every other county. The county legislative authority may adopt a resolution activating its inactive air pollution control authority. The county legislative authorities of two or more contiguous counties may merge any combination of active or inactive air pollution control authorities.

A local air pollution control authority or, where a local authority is inactive, the Department of Ecology issues permits for setting fires. Fire fighters who wish to set structures on fire for fire fighting instruction purposes must first obtain a permit from the local authority or the Department of Ecology.

Summary: Without obtaining a permit from the local air pollution control authority or the Department of Ecology, fire protection district fire fighters may set fire to structures for instruction in methods of fire fighting. The structures must be located outside of urban growth areas in counties that plan under the Growth Management Act, and the structures must be outside of cities with a population of 10,000 or more in other counties.

These fires are subject to the following: (1) other applicable permits and licenses must be obtained; (2) the fire may not be located in an area declared to be in an air pollution episode or any stage of impaired air quality; (3) the fire is subject to nuisance laws; (4) notice of the fire must be provided to owners of adjacent property; (5) structures that are to be set on fire must be identified; and (6) the structures must be inspected for the presence of asbestos, and any asbestos found must be removed.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 9, 1994

E2SHB 2798

PARTIAL VETO

C 299 L 94

Making major changes to the welfare system.

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Thibaudeau, Cooke, Peery, Silver, Dorn, R. Meyers, Talcott, Valle, Carlson, Dunshee, Linville, Rust, Ballasiotes, Sehlin, Jacobsen, Foreman, Wolfe, Wineberry, Mastin, G. Fisher, Grant, Campbell, Brough, L. Thomas, B. Thomas, Lisk, McMorris, Chandler, Wood, Schoesler, Sheldon, Rayburn, Kremen, Brumsickle, Holm, Roland, Pruitt, Jones, Flemming, Horn, Kessler, Long, Shin, Moak, Finkbeiner, Quall, Conway, Springer, Tate, Mielke and Johanson).

House Committee on Human Services
House Committee on Appropriations
Senate Committee on Health & Human Services
Senate Committee on Ways & Means

Background: Teen pregnancies, inadequate emphasis on job placement, and long term receipt of income assistance grants are barriers to achieving economic independence.

Summary: When people apply for, or are reassessed through, the Aid To Families With Dependent Children Program (AFDC), they will receive family planning infor-

mation and assistance from the Department of Social and Health Services or a contracted agency. The Department of Social and Health Services will train financial and social work staff to communicate the transitional nature of aid to families with dependent children; actively refer people to the Job Opportunities and Basic Skills Program; and provide family planning information and assistance, in consultation with the Department of Health.

The Office of Superintendent of Public Instruction will provide grants to school districts for media campaigns that encourage students to delay sexual activity, pregnancy, and childbearing until they are prepared to support their children and that encourages sexual abstinence before marriage. Community public health and safety networks may also fund student-designed media and community campaigns promoting sexual abstinence and delaying sexual activity and pregnancy or male parenting.

The Department of Social and Health Services is required to maximize federal funds for the Job Opportunities and Basic Skills Program by aggressively seeking private and public funds as a match for the federal funds. The department will incorporate job development into local welfare office activities.

The Jobs Opportunity and Basic Skills Program is changed from a voluntary to a mandatory program. Within the federal requirements for participation, the following groups are established as priorities: (1) parents under age 24 with little or no work experience; (2) parents under age 24 without a high school or GED degree; and (3) recipients who have received assistance for 36 of the preceding 60 months. Also, at least one parent in a two parent household on assistance will participate in a work related activity at least 16 hours per week. AFDC recipients may volunteer in child care facilities and other volunteer organizations if they are not participating in an education or work training program. Recipients of assistance for 48 of the prior 60 months will have their grant payment reduced by 10 percent, and an additional 10 percent for each additional year they receive assistance. Exemptions are available if the recipients meet specific good cause exemptions. The recipients may earn income to make up for the grant reduction, and the earned income will not result in a dollar for dollar reduction in their grants. The department is required to eliminate the 100 hour rule for two parent families on AFDC.

The Department of Social and Health Services will determine the most appropriate living situation for an AFDC applicant under the age of 18. Parents of such an applicant are entitled to a hearing in superior court to challenge a decision by the department related to the most appropriate living situation for the applicant.

The Office of Support Enforcement must attempt to determine the identity of the noncustodial parent at the time of child's birth. The Office of Support Enforcement will notify consumer reporting agencies of all child support obligations. It will also contract with collection agencies to collect arrearages in certain cases. When a negotiable instrument, such as a check, is received by the Office of Support Enforcement and is returned for insufficient funds, restitution will be sought from the payer of the child support order.

The Department of Health must submit an immunization assessment and enhancement proposal to reduce vaccine-preventable diseases among Washington's children. The Legislative Budget Committee will conduct a program performance audit of the Department of Health's immunization program.

The state food donation act is modified by the addition of language from the model federal good samaritan food donation act.

A voluntary wage supplementation program is established in the Department of Social and Health Services to supplement wages paid by private employers to AFDC recipients. Local Employment Partnership Councils pilot this program, through job development and matching job seekers with employers. DSHS contracts with local public or private nonprofit organizations.

Participants in the wage supplementation program are paid a minimum of $5 per hour and receive benefits equal to other employees. Training wages can be paid, if allowable under federal wage and hour law. Unspecified incentives are created to encourage employers to retain the workers for more than six months. Limitations on the types of positions for which the AFDC recipients would be allowed to qualify are already in current statute.

The program is aimed at the "hardest to employ" and those "at-risk of long-term dependence on welfare."

Votes on Final Passage:

House	97	0	
Senate	44	2	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994
July 1, 1994 (Sections 6, 7 and 11)
July 1, 1996 (Sections 12 and 13)

Partial Veto Summary: The Governor vetoed the requirement that eligible persons participate in the job opportunities and basic skills program which emphasizes job readiness and vocational education. The jobs opportunities and basic skills program will continue to give first priority to volunteers. The age of a child before which the parent can refuse to participate in job training, education, or employment is kept at age six, instead of age three. The prohibition against pursuing a liberal arts degree at a four year school is removed.

The requirement that the Department of Social and Health Services notify consumer reporting agencies of child support obligations is removed. The office of support enforcement will not be required to contract with private collection agencies to pursue arrearages which might consume a disproportionate share of the offices collection efforts. The office of support enforcement will not be required to seek restitution from a child support payer

when the person pays with a check which is dishonored for non-sufficient funds, or when there is an IRS tax refund that must later be refunded to a joint filer under federal law.

The legislative budget committee is not required to conduct a program performance audit of the Department of Health's immunization program.

VETO MESSAGE ON HB 2798-S2

April 2, 1994

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 7, 14, 15, 18, and 30, Engrossed Second Substitute House Bill No. 2798 entitled:

"AN ACT Relating to public assistance reform;"

Engrossed Second Substitute House Bill No. 2798 is a comprehensive plan to reform our welfare system. It directs efforts toward education, job readiness, teen pregnancy, and obstacles to achieving economic independence. Welfare recipients and all the residents of our state will benefit from the reforms established in this bill.

This legislation emphasizes the temporary nature of welfare for recipients who are not incapacitated or caring for young children. Sanctions will be gradually implemented for the few adults who are not participating in efforts to become self-sufficient. These changes provide first steps toward future efforts to link the welfare system to the labor market.

Section 7 contains language regarding mandates and target groups for self-sufficiency efforts which already exist in federal law and are being implemented in Washington State. For instance, increasing numbers of young parents under age 24 must be working or searching for work. This section, however, prohibits the granting of public assistance to people pursuing a liberal arts education. This conflicts with the need to encourage self-sufficiency. The mandate to sanction parents when a child becomes age three instead of age six, does not take into consideration the benefits of parenting and the stresses on low-income families. For these reasons, I am vetoing section 7.

Section 14 requires the Department of Social and Health Services to report the amount of a child support obligation to consumer reporting agencies operating in the state of Washington. The effect of this condition is to require the Support Enforcement Division to report all child support obligations, regardless of delinquency, amount, or request. I believe this section is too broad and that it could impair the ability of parents to obtain credit, even when those parents are current in their child support obligations. Currently, Support Enforcement reports, as required by federal law, only debtors who are at least $1,000 in arrears on their child support obligation. I believe the department's use of the federally mandated credit bureau reporting program meets the intent of this section without adversely affecting complying parents. For these reasons, I am vetoing section 14.

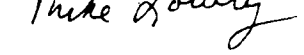
Section 15 requires the Support Enforcement Division to contract with private collection agencies to pursue overdue child support amounts in all cases that might otherwise consume a disproportionate share of the office's collection efforts. Private collection agencies cannot avail themselves of administrative remedies that are available solely to the Support Enforcement Division. Consequently, where the state would be minimizing costs and providing speedy dispute resolution in the administrative forum, private collectors would force more and more cases into an already overburdened court system with accompanying delays and increased costs to all parties involved. Also, private child support collection will not be provided free of charge. The normal fee for this service is approximately 25 percent of the amount collected. This issue needs more analysis of the fiscal impacts to the state and the effect it would have on our court system. For these reasons, I am vetoing section 15.

Section 18 directs the Support Enforcement Division to obtain restitution from the payer under a child support order when money is either paid by check that is later dishonored for non-sufficient funds, or when there is an IRS tax refund that must later be refunded to a joint filer under federal law. While section 18 directs the department to seek restitution from the payer, it does not provide a mechanism to ensure these monies are recovered. This section, as written, is ambiguous, will be administratively burdensome to the department, and has unclear fiscal implications. I will ask the department to review its process, consult with other interested parties, and introduce legislation next session to address this issue. For these reasons, I am vetoing section 18.

Section 30 requires the Legislative Budget Committee (LBC) to conduct a program performance audit of the Department of Health's Immunization Program and to report its findings to the legislature by no later than October 31, 1994. The Department of Health is directed to allocate $40,000, or so much is necessary of its general fund-state appropriation, to LBC for this audit. No funding is appropriated for this audit. The Department of Health began internal program and fiscal reviews of their Immunization Program in December, 1993. These reviews will provide consistent and verifiable ways to project and validate inventory needs and costs for current and future biennia. They will also allow us to evaluate and develop programs to increase access for childhood vaccinations. An LBC performance audit would be an unnecessary duplication of these reviews. This section would also set a precedent for funding studies or audits from allocations from one agency to another. For these reasons, I am vetoing section 30.

With the exception of sections 7, 14, 15, 18 and 30, Engrossed Second Substitute House Bill No. 2798 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 2811

C 138 L 94

Eliminating obsolete practices in state procurement.

By Representatives Caver, Anderson, Wolfe, Reams, Ballard, Pruitt, Jones, Dunshee, Quall, Karahalios and Springer; by request of Department of General Administration.

House Committee on State Government
Senate Committee on Government Operations

Background: Under current law, the Office of State Procurement (OSP) within the Department of General Administration (GA) is required to conduct periodic visits to state agencies and institutions of higher education to determine compliance with procurement statutes and supporting departmental policy. OSP is also required to take corrective action. According to GA, these functions have never been funded.

In 1933 and 1937, the Legislature passed a series of laws requiring that the state, local governments, and school districts purchase fuel "wholly mined or produced within

the state" unless the costs of using the fuel is over 5 percent greater than the costs of using out-of-state fuel. In 1938, and again in 1989, the state Supreme Court held that these statutes are unconstitutional.

In 1967, the Legislature passed a law requiring that bidders on public contracts furnish certified statements setting forth the nature and source of offshore items in excess of $2,500 that have been used in the performance of contracts. GA is required to keep these statements for five years. According to GA, these requirements have not been implemented since 1967.

The director of GA is required to establish a "Forms Management Center" to coordinate, design, implement and maintain a statewide forms management program. According to GA, this program has not been funded for over 10 years.

Summary: The requirement that the Office of State Procurement conduct periodic compliance visits to state agencies and higher education institutions is repealed. OSP is required to advise these agencies regarding compliance.

The statutes requiring that the state, local governments and school districts purchase fuel produced within the state are repealed.

The statute that requires bidders on public contracts to furnish certified statements setting forth the nature and source of offshore items in excess of $2,500 used in the performance of contracts is repealed.

The Forms Management Center is repealed.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: June 9, 1994

HB 2812

C 242 L 94

Revising provisions insuring energy conservation in design of public buildings.

By Representatives Bray, Caver, Romero, Reams and Ballard; by request of Department of General Administration.

House Committee on Energy & Utilities
Senate Committee on Energy & Utilities

Background: Existing law requires life-cycle cost analyses for major public building construction and renovation.

Life-cycle cost analyses consider the whole lifetime of facilities. One guiding factor in establishing this requirement was that energy conservation and renewable energy equipment use might be more costly initially, but save money over the life of facilities.

"Major facilities" are specified as 25,000 or more square feet of usable floor space. This statute has been interpreted to require a "full" life-cycle cost analysis regardless of the size of the facility so long as it exceeds 25,000 square feet. A "full" analysis may be more than necessary in order to make sound decisions in the case of some modest facilities near in size to the definitional minimum.

A new state commercial building energy code becomes effective in April of this year. The code requires energy efficiency measures that meet or exceed those which would be indicated in life-cycle cost analyses.

Summary: "Selected buildings" and "design standards" are defined.

The State Energy Office shall develop guidelines which identify simplified methods to assure the lowest life-cycle cost alternatives for selected buildings with between 25,000 and 100,000 square feet of usable floor area.

Votes on Final Passage:

House	92	0
Senate	47	1

Effective: June 9, 1994

SHB 2813

C 243 L 94

Revising provisions relating to public works contracts with the state.

By House Committee on Commerce & Labor (originally sponsored by Representatives Romero, Veloria, Caver, Wolfe and Bray; by request of Department of General Administration).

House Committee on Commerce & Labor
Senate Committee on Government Operations

Background: If the state or a municipality determines that a public works project will be executed by a method other than by contract or by using the small works roster process and the contract amount will exceed $15,000, or $25,000 in the case of colleges, universities, and community and technical colleges, the public entity must publish notice of the work at least 15 days before beginning work.

A small works roster process may be used by the Department of General Administration, the Department of Fisheries, the Department of Wildlife and the State Parks and Recreation Commission for projects of less than $50,000, or less than $100,000 if the project is managed for community and technical colleges. These projects are exempt from the general requirements for advertisement and competitive bidding. When using the small works roster, the agency must solicit at least five quotations from contractors randomly chosen from the small works roster. If the agency is unable to solicit quotations from five qualified contractors on the roster, the project must be advertised and competitively bid. The agency must invite at least one proposal from a minority contractor.

Summary: The dollar threshold is increased from $15,000 to $25,000 for a public works contract for which notice must be published by the state or a municipality if the work is executed by a method other than by contract or by using the small works roster process.

Beginning July 1, 1994, several changes are made in the small works roster process for specified state agencies. The small works roster exemption from the public works competitive bidding requirements for the Department of General Administration, the Department of Fish and Wildlife and the State Parks and Recreation Commission applies to projects under $100,000 instead of projects under $50,000. The Department of Natural Resources is added as an agency that may use the small works roster. The agency using the small works roster must invite at least one proposal each from a certified minority-owned contractor and a certified women-owned contractor.

When using the small works roster process for a project, if the agency does not receive at least two responsive bids, the project must be advertised and competitively bid. If work is to be executed by competitive bid, the awarding agency must invite at least one proposal each from a certified minority and a certified women-owned contractor.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 9, 1994
July 1, 1994 (Section 2)

HB 2814

C 98 L 94

Allowing public benefit nonprofit corporations to participate in state contracts for purchases.

By Representatives Anderson, Veloria, Caver, Wolfe, Romero and Dunshee; by request of Department of General Administration.

House Committee on State Government
Senate Committee on Government Operations

Background: The Office of State Procurement (OSP) is authorized to enter into purchasing agreements with local governments. These agreements are conducted under the Interlocal Cooperation Act. According to OSP, these agreements increase the volume of purchases made by OSP and thus increase the buying power of both the state and local governments.

A public benefit nonprofit corporation is defined as a corporation that has tax exempt status and whose income is not distributable to its members, directors, or officers.

Summary: The Office of State Procurement (OSP) is authorized to enter into agreements with public benefit nonprofit corporations that receive local, state, or federal funds to participate in state purchasing contracts. These agreements must be in the form of an interlocal agreement.

Votes on Final Passage:

House	95	0
Senate	34	13

Effective: June 9, 1994

ESHB 2815

C 300 L 94

Reforming state procurement practices.

By House Committee on State Government (originally sponsored by Representatives Anderson, Veloria, Caver, Wolfe, Romero, Reams, Bray, Ballard, Pruitt, Jones and Quall; by request of Department of General Administration).

House Committee on State Government
Senate Committee on Government Operations

Background: State procurement contracts cover a wide variety of goods and services, ranging from office supplies and equipment to prescription drugs for state institutions and repairs of mechanical equipment. Under current law, formal sealed bid procedures are not required for state purchases of $5,000 or less. The Office of Financial Management is authorized to adjust that limit to reflect changes in the Consumer Price Index. The limit is currently at $6,000. For purchases of $400 to $6,000, agencies are required to secure enough quotations to ensure a competitive price.

For institutions of higher education, the sealed bid limit is currently $15,000. For purchases between $2,500 and $15,000, institutions are required to secure enough quotations to secure a competitive price, and a record of competition must be documented.

Under current law, agency solicitation of bids must be by mail or in person. The electronic solicitation of bids is not authorized.

Summary: The sealed bid limit for state agency and higher education procurement contracts is raised to $35,000. Bids must be secured from at least three vendors. For purchases of $35,000 or less, the agency or institution of higher education is required to invite at least one quotation each from a certified minority-owned contractor and a certified women-owned contractor. Bids may be solicited by electronic transmission.

Votes on Final Passage:

House	94	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	46	1	
House	93	2	

Effective: June 9, 1994

HB 2843

C 29 L 94

Creating pilot projects to reduce long-term disability within workers' compensation.

By Representatives G. Cole, Long, Heavey, Roland, Cothern, Jones, Caver, Valle, Flemming, Wolfe, L. Johnson, Shin, Lemmon, Conway, Springer, Karahalios, J. Kohl, Kessler, Orr and King; by request of Department of Labor & Industries.

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

Background: The Workers' Compensation Advisory Committee is a statutory committee whose voting members are business and labor representatives. The committee conducts studies of Washington's workers' compensation system. In 1991 the committee formed the Joint Labor Management Task Force for the Prevention of Long-Term Disability. The task force made several interim reports to the Legislature, emphasizing the need for a cultural shift in the workers' compensation system from disability management to disability prevention. In its final report of January 1994, the task force found that a relatively small number of long-term disability claims account for more than 80 percent of state fund costs. The task force also found that although these claims result from non-catastrophic injuries, many of these workers have not returned to work long after most workers with similar injuries are back on the job.

The task force recommended that two pilot projects be conducted to evaluate the effect on long-term disability of significant reductions in claims load for claims managers. The pilots are to provide enhanced services and a team approach with all parties participating. In addition, the second pilot would include intensive case management and methods for dispute prevention.

Summary: The Department of Labor and Industries is directed to conduct two pilot projects to reduce the rate of long-term disability. Both projects include an effort to shift resources to the early management of the most difficult claims in an attempt to prevent system failures that contribute to long-term disability.

First pilot project. The first pilot project includes preinjury outreach and planning with employers and providers to prevent disabling injuries and to provide transitional work and reemployment for workers who are injured. Provider education and outreach is intended to enable providers to more adequately fulfill their responsibility under the law.

The pilot will include claims management initiatives, such as lower claims loads combined with return-to-work and on-the-job training, intensive screening of claims, and intensive claims management for injured workers at high risk of long-term disability.

Vocational rehabilitation resources may be redirected to on-the-job training earlier in the claim process. To subsidize the cost, the department may use funds that would otherwise have been used for a traditional vocational rehabilitation plan. A worker who participates in an on-the-job training contract using these funds is not eligible for traditional vocational rehabilitation services.

Whenever possible, the basis for claim closure should be the achievement of a circumstance of employment that is mutually beneficial to all parties. If this is not possible, and the worker is found to be medically fixed and stable, then the claim must be closed with either a return to work or a seamless transition to other resources such as basic health plan, unemployment benefits, and other job services. If the worker has job restrictions, then the claims manager must work with the employer to use job modification and on-the-job training to achieve reemployment.

Second pilot project. The second pilot project must include all the elements of the first pilot and, in addition, will (1) provide case managers for injured workers at high risk of long-term disability; and (2) specify procedures for using the independent medical examination system.

Case managers will coordinate a team approach in claims where there is risk of long-term disability. This is to occur as soon as possible after the injury. As a preference, case managers should be department employees.

A medical progress examination, separate from an impairment-rating examination, must be used to determine whether a change in diagnosis or treatment is in order. If there is no clear progress toward return to work anytime before six months of time-loss payments, the examination is to be conducted by a physician other than the attending physician. Attending physicians are to review the examination reports in consultation with the injured worker.

Attending physicians are encouraged to either conduct or participate in impairment-rating examinations. Injured workers must be notified if their attending physician chooses not to participate in the rating examination. The worker may agree to a physician to conduct the examination, or may agree with the employer on a qualified examiner from a pool of qualified examiners that will be established based on criteria and standards developed by the department and endorsed by the Workers' Compensation Advisory Committee, with input from other interested parties. An opportunity for a second rating is provided if either the worker or employer disagrees with an attending physician's rating. The claims manager must then select one or the other of the ratings and may not split the difference between them.

Claim closure must be handled with greater sensitivity to the effect on the injured worker, including improving notification and medical transition procedures.

Evaluation of the projects. The department is required to evaluate the pilot projects on objective, observable results of the services. Evaluation measures include: reduction in the rate of long-term disability; increases in

appropriate return to work; economic advantages to the employer of taking a more active role in safety, return-to-work planning, and disability prevention; customer satisfaction; and efficiency of redesigned claims units.

Reports. The department must make annual reports to the Legislature on the pilot projects, beginning December 1, 1994, and semiannual reports to the Workers' Compensation Advisory Committee.

Termination. The pilot projects and related provisions expire June 30, 1999.

Votes on Final Passage:

House 95 0
Senate 49 0

Effective: June 9, 1994

HB 2849

C 244 L 94

Exempting nonsalmon delivery license holders from United States residency requirements.

By Representatives Linville and King.

House Committee on Fisheries & Wildlife
Senate Committee on Natural Resources

Background: The Department of Fisheries issues commercial licenses and permits for the following activities: commercial fishing, delivery, processing or wholesaling of food fish and shellfish; operating a charter boat or a commercial fishing vessel; or acting as a recreational salmon guide in freshwater rivers and streams (except in the part of the Columbia River below the Longview Bridge). It is unlawful to engage in any of these activities without such a license.

Persons holding commercial licenses must meet the following qualifications: (1) 16 years of age or older; (2) U.S. residency; and (3) if the licensee is a corporation, authorization to do business in Washington State.

Under the auspices of two treaties between Canada and the United States regarding tuna and halibut harvest, Canadians may be issued nonsalmon delivery licenses to deliver these species. However, licenses may not be issued to Canadians for purposes outside of the treaties.

Summary: Holders of nonsalmon delivery licenses are exempted from the U.S. residency requirement.

Votes on Final Passage:

House 95 0
Senate 47 0

Effective: June 9, 1994

ESHB 2850

C 245 L 94

Changing education provisions.

By House Committee on Education (originally sponsored by Representatives Dorn, Brough, Cothern and Karahalios).

House Committee on Education
Senate Committee on Education

Background: The Education Reform Act of 1993 included a number of programs and activities intended to improve student learning in the state's K-12 education system.

The law included, among other things, Student Learning Improvement grants, the development of a statewide technology plan, the establishment of a Joint Select Committee on Education Restructuring, a new Center for the Improvement of Student Learning, the issuance of school report cards, and the establishment of an Education Fiscal Committee.

Student Learning Improvement grants. Funding for the Student Learning Improvement grants is to be based on the number of certificated staff, classified instructional aides and classified secretaries in schools that apply for grants. However, budget language provided funding based only on the number of certificated staff in each school.

Also, budget language has been interpreted to read that these funds may only be used for certificated staff. This contradicts language in ESHB 1209 that states that the funding formula is for allocation purposes only and that local school representatives are to determine how the funds will be spent.

Statewide Technology Plan. The Superintendent of Public Instruction is required to develop a statewide technology plan and recommendations on a technology grant program by December 15, 1993. While progress has been made in both areas, participants have requested that more time be provided before final products are due.

Select Committee on Education Restructuring. One of the tasks given to the Select Committee on Education Restructuring is to review all laws pertaining to K-12 education, except laws involving the "health, safety and civil rights" of students and staff. In the process of the committee's review, some members found that excluding laws involving health, safety and civil rights prevented the committee from reviewing the entire K-12 education system, and, if needed, from recommending improvements to health, safety and civil rights laws.

Center for the Improvement of Student Learning. The Center for the Improvement of Student Learning replaced the State Clearinghouse for Education Information. However, several references in statute to the clearinghouse were not removed.

School Report Cards. Schools are required to complete annual "report cards" for parents and the community. Since

1977, schools have also been required to complete a descriptive guide that serves a similar function.

Education Fiscal Committee. An Education Fiscal Committee is required to review the education funding system. The due date for the committee's final recommendations is January 16, 1995.

Summary: Student Learning Improvement grants: Changes are made in the Student Learning Improvement grant program to clarify that funds may be used for staff development and planning for certificated and classified staff and for site-based planning activities. Funds may be used in July and August prior to the school year. Also, funding allocations are to be based on the number of certificated staff in each building, and funding for four "days" will be provided for each of the three years of the grant program.

School districts are strongly encouraged not to supplant funding previously used for planning and staff development, and SPI is required to estimate the increase in planning, staff development, and site-based activities occurring as a result of the grants.

Statewide Technology Plan: The due dates for the statewide technology plan and technology grant program recommendations are delayed until September 1, 1994.

Select Committee on Education Restructuring: The Select Committee on Education Restructuring is allowed to review K-12 education statutes pertaining to the health, safety and civil rights of students. The due date for the committee's report on data reporting requirements is delayed one year until January 1996.

Center for the Improvement of Student Learning: References to the State Clearinghouse for Education Information are deleted in statute.

School Report Cards: The requirement that school districts complete a descriptive guide is repealed.

Education Fiscal Committee: The Education Fiscal Committee's due date for its final recommendations is delayed one year until December 15, 1995.

Student Learning: A list of basic values and character traits is added to the Basic Education Act. These values and traits include such things as honesty, self-discipline, respect for authority, and healthy behavior. They are not intended to be assessed or to be standards for graduation.

Votes on Final Passage:

House	97	0	
Senate	42	5	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	40	7	
House	95	0	

Effective: June 9, 1994
April 1, 1994 (Section 1)
September 1, 1994 (Section 10)

ESHB 2863

C 181 L 94

Facilitating acquisition of a propulsion system for new jumbo ferries.

By House Committee on Transportation (originally sponsored by Representatives Zellinsky, R. Meyers and Schmidt).

House Committee on Transportation
Senate Committee on Transportation

Background: 1993 legislation authorized the construction of three new Jumbo Class ferries with a capacity for 218 cars and 2,500 passengers.

The focus of the Jumbo Class Mark II ferry construction project to date has been the selection of the propulsion system for the vessels. To compress the delivery time of the ships and to control the selection of the best technology, the Department of Transportation (DOT), Marine Division proposed the purchase of the complete propulsion plant from one vendor. The propulsion plant contract was awarded to Siemens Energy and Automation, Inc. in September 1993 and provides for one shipset, with the option to purchase additional shipsets. The winning propulsion plant bid for the three shipsets is valued at $43.6 million.

State agencies must use competitive bid procedures administered by the Department of General Administration, Office of State Procurement (OSP) when contracting for goods and services. The competitive bid statutes include a provision that requires the use of life-cycle cost analysis if there is reason to believe this analysis will result in the lowest cost to the state. Life-cycle cost is defined to mean the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance and, where applicable, disposal.

The OSP, in awarding the Jumbo Class Mark II ferry propulsion contract, decided not to strictly apply life-cycle cost analysis and made its decision on the basis that: (1) the need for public safety, reliable schedules and passenger convenience are of paramount importance, and life-cycle costing did not lend itself to the realities of public transportation or offer the best value to the state; and (2) greater weight should be given to having equipment in the new ferries that offers reliability, maintainability, and commonality with engines in the fleet.

In November 1993, N.C. Machinery, an unsuccessful bidder on the propulsion contract, filed suit in Thurston County Superior Court against the OSP, challenging the process for awarding the propulsion contract and alleging that OSP failed to use life-cycle cost analysis.

The court found that the state acted arbitrarily and capriciously in deciding not to comply with life-cycle costing requirements and enjoined proceeding with the complete propulsion system contract, including engines. The court concluded that the state did not adequately document its

decision that the application of life-cycle costing would not result in the lowest cost to the state.

Subsequent to the court's oral order, the parties to the suit agreed in a stipulated order to limit the injunction to engine procurement and allowed Siemens' propulsion system contract to proceed.

The DOT maintains that delay in the immediate construction of the Jumbo Mark II ferries will result in severe economic loss to the state and that an exemption from existing state procurement requirements is needed to acquire the engine components of this construction project.

Summary: The DOT is authorized to enter into a contract, without bid, for the acquisition of the propulsion system or any component thereof, including diesel engines and spare parts for installation into one or more of the three Jumbo Class Mark II ferry vessels.

The authorization to enter into such contract does not limit the department from proceeding with any existing contract for acquisition of the propulsion system.

The DOT is required to publish a notice of its intent to negotiate a contract. The notice shall contain information about (1) the identity of the propulsion system or components to be acquired; (2) the proposed delivery dates; and (3) an address and telephone number for obtaining the request for proposal (RFP).

The RFP must outline the design and construction requirements for the propulsion system, including any component(s) ; the proposed delivery date and location for delivery; the form and formula for contract security; a copy of the proposed contract; and the deadline for receipt of the proposal.

Any proposal submitted shall constitute an offer and remain open until 90 days after the deadline for submitting proposals and must be accompanied by a bid deposit (cash, certified check, cashier's check, or surety bond) in the amount of 5 percent of the proposed contract price. If a contract is awarded and the selected firm fails to enter into a contract and furnish the required security within 20 days, the bid deposit is forfeited and deposited in the Puget Sound construction account.

The department, using criteria it develops, will evaluate proposals received for: (1) compliance with the RFP specifications; and (2) for suitability of each firm's proposal by applying appropriate criteria to be developed by the department to (a) assess the ability of the firm to expeditiously and satisfactorily perform, and (b) to accomplish an acquisition that is most advantageous to the department.

Weighted cost and operational criteria used to select the most advantageous diesel engine are delineated.

Upon concluding its evaluation, the DOT will select the firm presenting the proposal most advantageous to the department and rank the remaining firms in order of preference; or reject all proposals not in compliance with the RFP.

Upon selecting the firm with the most advantageous proposal and ranking the remaining firms, the department must negotiate a contract. If an agreement cannot be negotiated, the department may negotiate with the firm ranked next highest and may repeat this procedure until the list of firms is exhausted.

Firms not selected will receive immediate notification. The department's decision shall be conclusive unless appealed by an aggrieved firm to Thurston County Superior Court. Appeals are heard on the administrative record. The court may affirm the department's decision or reverse if it finds the action of the department is arbitrary and capricious.

The DOT, Department of General Administration, and the Office of Financial Management, in consultation with the Legislative Transportation Committee, are required to review current procurement statutes and the consequent impact on the operation of Washington State Ferries as a public mass transportation system. The results of the review are to be reported to the Governor and the House and Senate Transportation Committees on or before January 1, 1995.

Votes on Final Passage:

House	94	4	
Senate	33	15	(Senate amended)
House	89	4	(House concurred)

Effective: March 30, 1994

SHB 2865

C 182 L 94

Concerning the release of personal financial information obtained by a governmental agency.

By House Committee on Trade, Economic Development & Housing (originally sponsored by Representatives Valle, Sheldon and Roland).

House Committee on Trade, Economic Development & Housing
Senate Committee on Trade, Technology & Economic Development

Background: Financial and commercial information furnished by businesses to state agencies for participation in economic development programs is exempt from public inspection and copying under the Public Disclosure Act. Similar information submitted to local governments is not exempt from public disclosure.

The Clean Washington Center was created within the Department of Community, Trade, and Economic Development to provide targeted assistance to businesses that use recycled materials. Business information submitted to the Clean Washington Center is not exempt from public disclosure.

Summary: Financial and commercial information submitted by any person or business in order to apply for economic development loans or program services provided by a local government agency is exempt from public inspection and copying under the Public Disclosure Act.

Financial, commercial, operational, technical and research information submitted to or obtained by the Clean Washing-

ton Center in the course of expanding markets for recycled products is exempt from public disclosure and copying.

Votes on Final Passage:

House	93	0	
Senate	43	1	(Senate amended)
House	93	0	(House concurred)

Effective: July 1, 1994

HB 2867

FULL VETO

Exempting federally licensed dams from state regulation.

By Representatives Kessler, Chandler, Kremen, Finkbeiner, Long, Casada, Bray and Foreman.

House Committee on Energy & Utilities
Senate Committee on Energy & Utilities

Background: The Department of Ecology (Ecology) has authority over many aspects of water resources in the state, including a number of issues relating to the construction of dams in state waters. Ecology is required to inspect all dams to assure their safety and to set stream flows to protect against floods. The proponent of a dam must submit its plans to Ecology prior to construction for a review of the project's safety.

The Federal Energy Regulatory Commission (FERC) has the federal responsibility over most hydropower facilities. Under federal law, FERC has exclusive jurisdiction over those projects it regulates. This authority may preempt state law which conflicts with or interferes with the federal regulatory scheme. FERC is required to consider state interests with respect to the federally-licensed facilities. FERC must consider comprehensive plans developed by a state for the management and use of a waterway. FERC must consider recommendations made by a state agency with administrative responsibility over flood control, navigation, irrigation, recreation or other resources affected by a federally-licensed project. FERC must also include in a license conditions recommended by state fish and wildlife agencies, unless FERC determines the conditions are inconsistent with the Federal Power Act.

FERC is responsible for assuring that a federally-licensed dam is constructed and operated in a safe manner. Ecology and FERC have entered into a memorandum of agreement to coordinate their activities relating to dam safety. The agreement reinforces FERC's primacy in dam licensing, operation and safety inspections. However, it commits FERC to consulting with Ecology during inspections and in responding to emergencies. The agreement gives Ecology a definite role in reviewing plans for and in inspecting construction on new or modified dams. Ecology and FERC independently review plans. Construction inspections are conducted jointly, but FERC is the focal point for response by the project operator.

Summary: The Department of Ecology has no authority to regulate, supervise or assure the safety of any project which requires a license from FERC under the Federal Power Act. Ecology may not require any federal licensee to submit to an inspection, submit plans, seek a permit or change the design or operation of a federally-licensed dam.

The Department of Ecology may review and comment on licensee submissions to FERC. When requested by FERC or a licensee, the department may conduct inspections to help in preparing comments.

Votes on Final Passage:

House	89	5	
Senate	46	0	(Senate amended)
House	88	5	(House concurred)

VETO MESSAGE ON HB 2867

April 2, 1994

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. 2867 entitled:

"AN ACT Relating to Water Resources;"

The Department of Ecology regulates dams in this state as part of its general responsibilities in the area of water resources. Its mission is to "inspect construction of all dams... to assure safety to life and property..." (RCW 43.21A.064). A number of dams in this state are regulated by the Federal Energy Regulatory Commission (FERC). Although FERC has jurisdiction over federally licensed hydro-power facilities, the federal agency must recognize the Department of Ecology regarding certain issues specific to the state's interest in protecting the public's safety.

In 1992, FERC and the Department of Ecology entered into a Memorandum of Agreement which defined the roles of each agency so that applicants/licensees would deal with FERC exclusively for the purposes of regulation. The Department of Ecology now provides engineering review of existing dams regarding the ability to withstand earthquakes and major floods and provides input to FERC regarding issues specific to the state of Washington.

Because of the important role the Department of Ecology plays in protecting the safety of the 100,000 citizens who live downstream from these dams, there is a compelling argument to maintain the state's role in dam construction and inspection. As a result of the agreement with FERC, there is no overlap in regulation, and applicants/licensees are not required to provide duplicative information or to be subjected to redundant inspections. The Department of Ecology's budget for regulation of FERC licensed dams is almost insignificant. To withdraw the state from the regulation of these dams would risk public safety for no valid reason.

The Washington State Supreme Court recently found that under current law; the state has the authority to impose conditions in a FERC certification which are designed to protect fish and wildlife. In no way should the state retreat from its responsibilities to its citizens and its resources.

For these reasons I am vetoing House Bill No. 2867 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SHB 2891

C 246 L 94

Providing medical aid benefits coverage for school district-sponsored, nonpaid, work-based learning experiences.

By House Committee on Education (originally sponsored by Representatives Dorn and Springer).

House Committee on Education
Senate Committee on Education

Background: Many educators and business and labor leaders think that more opportunities should be provided for students to explore different career areas. One approach to achieve this goal is "job-shadowing," in which students spend time in offices, industrial plants and other places of business and commerce.

A concern, however, has been raised about the potential liability faced by a business owner should a student have an accident on the premises.

It has been suggested that the liability exposure would be less if these students were considered as "volunteers" under the state's Workers' Compensation insurance program.

Summary: An employer covered under the state's Workers' Compensation insurance program may elect to include student volunteers as employees for purposes relating to medical aid benefits. The employer must give notice of its intent to cover its student volunteers prior to the occurrence of an injury or contraction of an occupational disease.

Premiums for coverage of student volunteers are to be paid by the employer who has registered and accepted the services of volunteers.

The Task Force on School-to-work Transitions is to develop guidelines for nonpaid work-based learning experiences for student volunteers and report to the Superintendent of Public Instruction by December 14, 1994.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 9, 1994

HB 2905

C 247 L 94

Making permanent and simplifying the age sixty-five cost-of-living adjustment to retirement allowances.

By Representatives Sommers, Long, Linville and Rayburn; by request of Joint Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Retirees of the Teachers Retirement System (TRS) Plan I and the Public Employees Retirement System (PERS) Plan I may receive up to four types of post-retirement benefit adjustments. Two of these adjustments are the Plan I Cost of Living Adjustment (COLA) and the one-time temporary February 1992 adjustment.

The Plan I COLA: A retired member of TRS and PERS Plan I receives up to a 3 percent post-retirement adjustment if the current benefit purchasing power is lower than 60 percent of the level of purchasing power that the member had at age 65. Each member's eligibility for a COLA is calculated individually each year.

The February 1992 adjustment was a one-time adjustment for retirees receiving the Plan I COLA to bring their benefit purchasing power up to 60 percent of the benefit purchasing power they had at age 65. This monetary adjustment was provided to approximately 10,000 retirees because a 3 percent COLA alone would not bring their benefit up to the 60 percent purchasing power level. The 1993-95 biennial budget act continued this monthly stipend at the 1992 level through 1995.

Summary: For TRS and PERS Plan I retirees, the dollar amount of the one-time February 1992 cost-of-living adjustment is made a permanent monthly benefit for the original recipient retirees.

A simplified method is provided for calculating the Plan I COLA. The simplified definition will calculate eligibility for the COLA for the group instead of for each individual retiree. Annually, the actuary will calculate the current age of the youngest retiree to have lost 40 percent of age 65 purchasing power. The Department of Retirement Systems will then provide a COLA to all those who are that age or older. The COLA will equal the annual rate of change in the consumer price index up to 3 percent. The revised method of calculating the Plan I COLA will be implemented July 1, 1995.

The Governor must report annually the total payments resulting from the post-retirement adjustment and the amount of general funds and other funds required to reduce the unfunded accrued liability of the retirement system by June 2024.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	92	0	(House concurred)

Effective: August 1, 1994

HB 2909

C 183 L 94

Authorizing bonds for public-private transportation initiatives.

By Representatives R. Fisher, Schmidt, Forner and Wood.

House Committee on Transportation
Senate Committee on Transportation

Background: In 1993, legislation was enacted establishing the public-private initiatives in transportation program. This legislation provides a wide range of opportunities for private entities to undertake all or a portion of the study, planning, design, finance, construction, operation and maintenance of transportation systems and facilities.

The program authorizes the Department of Transportation to enter into agreements with private entities to develop transportation capital improvements and recover some or all of the costs with user fees, tolls or other financial conventions. The secretary is charged with administering the program and selecting up to six projects for implementation. All selected projects are subject to approval by the Transportation Commission.

By definition, the state is expected to participate in some manner in the public-private partnership. This participation, in some cases, will be financially related. A financial commitment also improves the state's ability to compete for the federal funds envisioned under the Intermodal Surface Transportation Act of 1991.

Summary: The issue and sale of $25 million in general obligation bonds is authorized for the implementation of the public-private initiatives program.

Legislative appropriation is required before any bonds are sold. In making the appropriation, the Legislature must specify what portion of the net proceeds is provided for possible loans and what portion is provided for other forms of cash contributions.

The bond proceeds will be deposited in two places. Those proceeds in support of possible loans are deposited in the transportation revolving loan account created in the transportation fund; proceeds in support of all forms of cash contributions are deposited in the transportation fund.

Principle and interest payments on loans from the transportation revolving loan account will be deposited in that account and available for the payment of principle and interest on the bonds sold.

Principle and interest on the bonds sold for the public-private initiatives program will be payable from revenues generated by the 0.2 percent motor vehicle excise tax for transportation purposes and deposited in the transportation fund.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 9, 1994

HCR 4437

Providing electronic access to legislative information.

By Representatives Finkbeiner, Campbell, B. Thomas, J. Kohl, Eide, Lemmon, Johanson, Cothern, Flemming, L. Thomas, Shin, Caver, Hansen, Conway, Backlund, Bray, Moak, Foreman, Dunshee, Romero, Kessler, L. Johnson, Quall, Talcott, Brough, Patterson, G. Cole, Casada, Tate and Anderson.

Background: In 1993, a pilot program was established within the legislative branch of state government for providing electronic, on-line access to legislative information.

Summary: The Joint Legislative Systems Committee is directed to provide the public with electronic access to public legislative information such as bills, digests, and reports. In doing so, the committee must consider: the various data bases and documents maintained on the legislative information system; the desire by members of the public for electronic access; the method and format best suited for providing public access; the need to provide the most current and accurate information; the educational purpose that would be served by granting public access; the need to maintain the integrity and security of the legislative computer system; the capital and operating costs of providing public access; and the desirability of providing access at no cost or the lowest cost possible to the general public.

The committee must adopt an implementation plan by October 1, 1994.

Votes on Final Passage:

House Adopted
Senate Adopted

ESB 5018

FULL VETO

Allowing service of process on a marital community by serving either spouse.

By Senator Nelson

Senate Committee on Law & Justice
House Committee on Judiciary

Background: In a civil lawsuit, the plaintiff must personally serve the defendant, or may serve the defendant by leaving a copy of the notice at the defendant's home with a resident of the defendant's home who is of suitable age and discretion.

If the defendant is married, and the action is against the marital community, service of process may be made upon either spouse, and a resulting judgment for a community obligation is enforceable against the community.

It would reduce time delays and costs of litigation if, in actions against spouses involving separate property, service of process could be accomplished by serving either spouse personally or by leaving a copy of the summons at their residence.

Summary: Service of process may be obtained against one or both spouses of a marital community by serving either spouse personally or by leaving a copy of the summons at their home. A summons must be served on each spouse if they do not reside together.

Votes on Final Passage:

Senate	46	0
House	97	0

VETO MESSAGE ON SB 5018

April 1, 1994

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. 5018 entitled:

"AN ACT Relating to service of process;"

This bill would amend current law relating to service of process, by allowing a notice of legal action against one or both spouses of a marital community to be served to either spouse personally, or by leaving a copy of the summons at their home with a resident who is of suitable age and discretion.

The bill's intended purpose is to make service of process easier in cases against the marital community by allowing service of process on either spouse even if they are away from home. An issue is raised in this situation when the spouses are not living together. The legislation attempts to address this concern by providing that where the spouses do not reside together, process must be made upon each personally.

However, the bill's language not only makes it easier to serve process on cases against the marital community but, as written, also makes it easier to serve process on cases against a spouse's separate property. Specifically, the language would allow a process server, in a case involving one spouse's separate property, to serve the other spouse at work. This raises serious due process concerns that I believe justify a veto. It is inconsistent with the purpose of service of process, which is to effect due process so that a court may exercise jurisdiction over the person and property of a defendant in an action. This language represents a significant departure from current law on cases against individual/separate property which require some kind of personal notice or that notice be delivered to your home.

For these reasons, I have vetoed Engrossed Senate Bill No. 5018 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 5038

C 266 L 94

Creating a procedure for local government service agreements.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen and Winsley)

Senate Committee on Government Operations
House Committee on Local Government

Background: The Local Governance Study Commission was established in 1985 to study local government in the state and make recommendations to the Legislature. This commission had 21 members, and three ex-officio, nonvoting, members. The 21 members included four Senators, four Representatives, four city-elected officials, four county-elected officials, and five persons representing special districts. The ex-officio, nonvoting, members were the director of the Department of Community Development, who chaired the meetings, and the executive directors of the Association of Washington Cities and the Washington State Association of Counties. A major recommendation of the commission was the establishment of a process for local governments to enter into binding local government service agreements for the provision of local governmental services and the development of local policies, that could include the transfer of services and revenues between existing local governments.

Summary: The county legislative authority of every county with a population of 150,000 or more must convene a meeting by March 1, 1995, to develop a process for the establishment of service agreements. Other counties may utilize these provisions. On or before January 1, 1997, a service agreement must be adopted in each county under this chapter or a progress report must be submitted to the appropriate committees of the Legislature.

A service agreement must describe: (a) the governmental service or services addressed by the agreement; (b) the geographic area covered by the agreement; (c) which local government(s) are to provide each of the governmental services addressed by the agreement; and (d) the term of the agreement.

The agreement becomes effective when approved by: (a) the county legislative authority; (b) the governing body or bodies of at least a simple majority of the total number of cities covered by the agreement, which cities include at least 75 percent of the total population of all cities within the agreement; and (c) a simple majority of special purpose districts covered by the agreement. The participants may agree to use another formula.

A service agreement may include, but is not limited to:
(1) Dispute resolution arrangement;
(2) Joint land-use planning and development regulations;
(3) Common development standards between the county and cities;
(4) Coordination of capital improvement plans of the county, cities, and special purpose districts;
(5) Effect of service agreement on growth management plans;
(6) Intergovernmental revenue transfers based on service obligations; and
(7) Designation of additional area-wide governmental services to be provided by the county.

The process to establish service agreements should assure that all directly affected local governments and Indian tribes at their option are allowed to be heard on issues relevant to them.

Service agreements related to children and family services shall enhance coordination and be consistent with other similar plans.

When an arbitrator considers what a county can charge a city for providing court services, the arbitrator is limited to considering those additional costs borne by the county in providing those services.

Nothing contained in this act alters the duties, requirements, and authorities of cities and counties contained in the Growth Management Act.

Votes on Final Passage:

Senate	45	2	
House	84	14	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994
January 1, 1995 (Section 15)

SSB 5057

C 49 L 94

Correcting a double amendment related to exceptions to the right of privacy.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Quigley, McCaslin and Erwin; by request of Law Revision Commission)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: The 1991 Legislature passed two amendments to the Privacy Act. Both amendments excluded certain services from the provisions of the act. These amendments were made without reference to each other.

One amendment provided that using information obtained through 911 or enhanced 911 in order to protect the public would not violate the Privacy Act. Enhanced 911 refers to a 911 telephone service which automatically displays the name and address associated with the incoming telephone call.

The second amendment provided that information obtained and used in certain common carrier services, sometimes called "Caller I.D." services, would not violate the Privacy Act. The second amendment also referred to enhanced 911, but failed to mention 911.

The amendments are not inconsistent with each other; however, they duplicate a reference to enhanced 911.

Summary: The statute listing exceptions to the Privacy Act is amended. Subsection (a) contains the reference to common carrier services. Subsection (b) contains the reference to 911 and enhanced 911. A duplicate reference to enhanced 911 is stricken.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 9, 1994

ESSB 5061

C 267 L 94

Limiting residential time in parenting plans and visitation orders for abusive parents.

By Senate Committee on Law & Justice (originally sponsored by Senators Fraser, Winsley and A. Smith)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: A parent who has sexually, physically, or emotionally abused a child may obtain unsupervised residential time with that child if the court finds such contact would not harm the child and the chance of the abusive behavior reoccurring is so remote that limitations on residential time are not in the child's best interests. However, absent the court making that finding, a court is directed to limit the parent's residential time with the child.

Summary: A court shall not allow a parent who has been convicted of a sexual offense or has been found to be a sexual predator to have residential time with a child.

If a parent lives with an adult or juvenile that has been convicted or adjudicated of a sexual offense or found to be a sexual predator, the court will restrain the parent from contact with the child except for contact that occurs outside the presence of that person.

A parent who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused

the child shall not be allowed to have contact with the child unless the child's therapist or evaluator recommends that the child is ready for contact with the parent and will not be harmed by such contact.

A parent who resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child shall not be allowed to have contact with the child. However, if the court finds that the parent accepts that the person performed the harmful conduct and the parent is capable of protecting the child from harm from that person, then the court may allow contact between the parent and the child.

A parent's residential time with the child shall be limited if the court finds that the parent resides with a person who has engaged in physical, sexual or emotional abuse of a child, domestic violence, or assault or sexual assault that causes grievous bodily harm or fear of such harm.

When a court requires supervised contact between the child and the parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child, the court may not approve a supervisor unless it finds that the supervisor accepts the occurrence of the harmful conduct and is willing and capable of protecting the child from harm.

The same rules apply to nonparental actions for child custody.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	96	0	
Senate	45	1	

Effective: April 1, 1994

ESB 5154

C 30 L 94

Concerning the maintenance in mobile home parks.

By Senator Winsley

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

Background: Some mobile home park owners have transferred the responsibility for the maintenance and care of permanent structures in the mobile home park to the park tenants. Some park tenants have expressed concern they are unable to obtain insurance on these structures because they do not own them, may be injured while trying to repair the structures, or do not have the resources to maintain the structures.

Summary: A mobile home park owner is prohibited from transferring the responsibility for the maintenance or care of permanent structures in the park to the park tenants unless requested by the tenant or tenant association.

"Permanent structures" include the clubhouse, carports, storage sheds, or any other permanent structures provided as amenities to the park tenants. Structures built or affixed by the park tenants are not considered permanent structures.

Any provision in a rental agreement or other document transferring responsibility for the maintenance or care of permanent structures in the park to the park tenants is void.

Votes on Final Passage:

Senate	43	3
House	93	0

Effective: March 21, 1994

2SSB 5341

C 139 L 94

Providing for forfeiture of a vehicle upon conviction for driving while under the influence of intoxicating liquor or drugs.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Quigley, McCaslin, Vognild, Winsley, Deccio, von Reichbauer, M. Rasmussen, Roach and Oke)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: When a person is convicted of DWI for the second time within a five-year period, the court may direct law enforcement to seize the motor vehicle the convicted person was driving at the time of the second DWI offense. The seizure automatically commences proceedings for forfeiture.

If the offense for which a person is charged with DWI occurs within five years of a previous conviction for DWI, the court is required to inform the person of the prohibition against selling the vehicle he or she owns and was driving at the time of the offense. The court will also immediately send notice of the charge to the Department of Licensing (DOL). The court is required to notify the DOL of the subsequent conviction, acquittal, or other disposition of the charge.

When the DOL receives notice of the DWI charge, it is required to withhold issuance of a certificate of ownership for the vehicle the person who is charged with DWI was driving at the time of the offense. The DOL is not required to withhold issuance of a certificate of ownership for such vehicle if the applicant is the holder of a bona fide security interest or the lessor of the vehicle.

Summary: A person who is arrested for a second DWI within five years is prohibited from transferring, selling or encumbering his or her interest in the motor vehicle the person was driving at the time of the violation until acquit-

tal, dismissal or 60 days after conviction. Violation of this prohibition is a misdemeanor. A leased vehicle may be transferred to the lessor and a rented vehicle may be transferred to the rental agency. A vehicle encumbered by a bona fide security interest may be transferred to the secured party.

On a second or subsequent conviction for DWI committed within five years of the previous conviction, the vehicle the person was driving at the time of the offense is subject to seizure and forfeiture if the person has a financial interest in the vehicle.

The person claiming to be the legal owner of the vehicle shall have the burden of producing evidence that the vehicle should not be forfeited.

A law enforcement agency must first satisfy any bona fide security interest in a vehicle the agency may have seized before it sells the vehicle or retains it for official use.

Votes on Final Passage:

Senate	44	2	
House	93	0	(House amended)
Senate	45	1	(Senate concurred)

Effective: June 9, 1994

2SSB 5372

C 301 L 94

Changing multiple tax provisions.

By Senate Committee on Government Operations (originally sponsored by Senators Loveland and Winsley)

Senate Committee on Government Operations
House Committee on Local Government
House Committee on Revenue

Background: Existing statutory provisions governing the assessment and collection of various state and local taxes contain inconsistent procedures, time frames and obsolete references to agencies and other statutes.

Summary: Delinquent gambling taxes become a lien on real and personal property in the same manner as other taxes.

Joint school district levies collected by a county treasurer must be remitted monthly rather than quarterly.

A requirement that counties send tax foreclosure summons to city treasurers is deleted.

It is illegal to reuse or transfer a mobile home movement decal.

At least ten days prior to a hearing before the state Board of Tax Appeals, both the county assessor and the taxpayer must provide each other with evidence of comparable sales they intend to present.

The requirement that a notice of appeal from a county board of equalization decision be filed with the county auditor is deleted. The notice is filed directly with the state Board of Tax Appeals. The state Board of Tax Appeals may enter a multi-year order.

The terms "adequate stocking" and "merchantable stand of timber" are defined by the Forest Practices Board.

It is made clear that conservation future levies are subject to the 1 percent constitutional limit.

The court shall determine any penalty, not to exceed $5,000, for the failure of a secured party listed on the tax rolls to provide to the assessor the name and address of the person making the mortgage or contract payments. The formula for establishing such a penalty is deleted.

Omitted improvements to real property may be added to the tax rolls even if other improvements already exist. The assessment of omitted improvements is not precluded by an intervening encumbrancer.

At the request of 80 percent of the owners, the county assessor may charge all owners the actual cost of surveying and platting an irregular subdivision. These charges, if unpaid, become a lien on the property and may be collected in the same manner as a property tax.

The abstract of the tax rolls shall be transmitted by the assessors to the Department of Revenue by the 18th of August.

If a county fails to provide the Department of Revenue an assessment return by December 1, the department may proceed in a manner it deems appropriate to estimate the value of each class of property in the county.

The county assessor must provide the taxpayer with any evidence of comparable sales at least 15 days prior to a board of equalization hearing. The taxpayer must provide the assessor with his or her evidence of comparable sales at least ten days prior to such hearing. The Board of Equalization may enter multi-year orders.

Language is clarified that taxes paid as a result of mistake, inadvertence, or lack of knowledge of a public employee or taxpayer is the basis for a refund.

The provision authorizing payment of property taxes by credit card is repealed. Other obsolete references or terms are corrected or repealed.

The responsibilities of county treasurers for fiscal matters of the county and special taxing districts within the county are increased. The authority of county treasurers to invest funds is clarified. County treasurers are authorized to provide collection services to other county agencies and to serve as or designate a fiscal agent on local bond issues. The authority of special taxing districts to name a fiscal agent on bond issues is repealed.

The use of "debit cards" to pay court fines is authorized.

Terminology regarding the assessed valuation of utility assets and private car company assets is changed.

Statutes requiring salaried county officers to remit all fees collected to the county treasurer and requiring transient traders to notify the assessor when they come into the state to do business are repealed.

King County is authorized to pay employees up to 13, rather than seven, days after a two-week pay period.

Votes on Final Passage:

Senate	46	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	41	0	(Senate concurred)

Effective: June 9, 1994

ESB 5449

C 185 L 94

Changing provisions regarding judgments.

By Senator Hargrove

Senate Committee on Law & Justice
House Committee on Judiciary

Background: A number of problems have been identified by court clerks and other interested parties regarding judgments and court procedures.

Summary: The requirement of posting a bond may be waived by a judge when issuing an injunction if a person's health or life would be jeopardized.

A judgment rendered in another state may be filed in district court (as well as superior court), provided the judgment is within the district court's civil jurisdiction and venue.

Superior courts are authorized to use collection agencies for the collection of unpaid court obligations and to recover collection costs from the debtor.

The Departments of Social and Health Services and Corrections must file a satisfaction of judgment for payments made through them instead of through the court clerk.

A judgment must contain a summary. The clerk is not liable for an incorrect summary submitted by a party.

Proceeds of sales of real estate in satisfaction of judgments must be distributed by direction of court order.

Interest from the investment of funds held in trust by a court will only accrue to the beneficiary after the written request for investment has been made.

Votes on Final Passage:

Senate	44	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	97	0	
Senate	45	0	

Effective: June 9, 1994

E2SSB 5468

PARTIAL VETO

C 302 L 94

Imposing requirements for businesses that receive public assistance.

By Senate Committee on Trade, Technology & Economic Development (originally sponsored by Senators Fraser, Skratek, Pelz and Prentice)

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing

Background: Washington's economic development programs include various tax deferral plans and grant or loan programs to assist business development. Although these programs may include some conditions for eligibility, private businesses receiving assistance are not required to give advance notice of any business closure, to continue to honor collective bargaining agreements after relocating a facility, or to meet any specific employment standards for employees, except as required under relevant federal or state law.

Summary: The Department of Revenue and the Department of Community, Trade, and Economic Development will measure the effect of current tax deferral and credit programs and the development loan fund on businesses. The departments will determine whether recipients of benefits have met certain standards or complied with certain requirements. Businesses applying for a benefit will submit employment impact estimates and, after receiving the benefit, will submit employment impact statements. The Executive-Legislative Committee on Economic Development Policy will review the departments' findings and make recommendations to the Governor and the Legislature regarding the benefit programs.

Information on individual businesses is exempt from public disclosure. The departments shall report their findings to legislative committees.

Votes on Final Passage:

Senate	26	22	
House	69	26	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	61	36	
Senate	30	18	

Effective: April 2, 1994

Partial Veto Summary: The section of the bill requiring a study and report on tax deferral and tax credit programs was vetoed, leaving an intent section and an emergency clause.

VETO MESSAGE ON SB 5468-S2

April 2, 1994

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 Second Substitute Senate Bill No. 5468 entitled:

"AN ACT Relating to private business entities receiving public assistance;"

This legislation would direct the Department of Revenue and the Department of Community, Trade and Economic Development to prepare a study of firms that have participated in state sales tax deferral, business and occupation tax credit, and development loan fund programs. The departments would be required to collect information to measure the effect of these tax provisions and loans on businesses. The departments would also be directed to measure whether the firms participating in the programs have followed a wide range of federal and state requirements under other statutes and have met other standards of conduct not required under current law. Firms applying for participation in these programs would be required to prepare employment impact estimates for the departments.

I understand and agree with the premise that the state has an interest in determining whether its economic development programs are achieving their intended effect. I also agree that the goal of state economic development activities is to encourage a sustainable high wage, high skill economy in the state for all of the state's citizens.

I continue to believe that the state should maintain high environmental, health and safety, and employment standards implemented in a way that minimize bureaucracy, duplication, and confusion for the state's businesses. High standards should be enacted in the laws that govern these subjects. However, if compliance with existing standards in these areas is to be examined by the study, the Department of Revenue and the Department of Community, Trade and Economic Development are not the proper agencies to conduct the study.

I am also concerned that the private business information to be collected from businesses under this legislation would be subject to public disclosure. Because we believe that public business should take place in the open, our state has one of the strongest public disclosure statutes in the nation. The only way for publicly collected information to remain confidential is to amend our public disclosure statutes to specifically exempt such information from disclosure requirements. Despite the effort in the legislation to ensure that information collected from individual firms will remain confidential, I believe that information collected would be subject to disclosure.

As a result of these two concerns, I am vetoing section 2 of Engrossed Second Substitute Senate Bill No. 5468. However, I also believe that it is in the state's long-term interest to promote a sustainable high wage, high skill economy and to maintain high environmental, health and safety, and employment standards. As a result, I am asking the directors of state agencies with responsibility for environmental protection, employment, economic development, and workplace health and safety to identify threshold criteria that the state should consider applying in the future as eligibility criteria for state assistance programs. If businesses are willful repeat violators of existing statutes in these areas, these businesses should be removed from the benefits of the state's economic development programs. I am also directing these agencies to involve interested parties in the process of identifying such criteria. I will examine the results of these actions and consider requesting changes in state law and regulations to implement them.

With the exception of section 2, Engrossed Second Substitute Senate Bill No. 5468 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESB 5692

C 268 L 94

Financing conservation investment by electrical, gas, and water companies.

By Senators Sutherland, Moore, Prentice, Jesernig, Williams, A. Smith, Amondson, Hochstatter, Roach, West and Oke

Senate Committee on Energy & Utilities
House Committee on Energy & Utilities

Background: There are two broad types of retail utilities that operate in the state of Washington: those owned by the consumers (usually through some type of municipal corporation) and those owned by investors. Consumer-owned utilities include municipal utilities, public utility districts, rural electric cooperatives, and mutual corporations. The rates and services of these consumer-owned utilities are regulated by officials who are elected by the consumers.

The rates and services of the investor-owned utilities are regulated by the Washington Utilities and Transportation Commission (WUTC). The WUTC conducts a comprehensive review of the costs and investments of the utility before approving the rates and charges of these utilities. The WUTC approves rates that allow a utility to make a fair rate of return for the company's stockholders.

When an electrical utility under WUTC jurisdiction invests in a power plant, the assets of the plant can be used as a form of collateral when borrowing. The WUTC must approve a utility's request to borrow large sums of money for these types of projects.

Traditionally, investor-owned utilities have had the incentive to sell more of their product in order to increase profits. Recently the WUTC and Puget Power have experimented with a new type of rate structure that decouples the utility's sales from their ability to make greater profits. This rate structure emphasizes investments in electricity conservation.

Unlike investments in power plants, investments in conservation resources are more difficult to quantify as assets. This is partly because conservation investments often consist of a multitude of relatively small investments. Also the actual installed product (such as insulation or windows) is difficult to retain as utility property.

There is concern that investor-owned utilities and the WUTC may lack sufficient authority to allow a utility to borrow needed funds for large scale conservation projects.

Summary: With approval by the Washington Utilities and Transportation Commission (WUTC) investor-owned utilities may issue conservation bonds. Investor-owned utilities may pledge conservation investment assets as collateral for conservation bonds.

Conservation investments may be bondable if the WUTC determines that the expenditures were incurred in conformance with a conservation service tariff in effect with the WUTC. The WUTC must also find that the company has proven that the expenditures were prudent and that financing through these bonds is more favorable to the customer than other alternatives.

The WUTC reviews and approves conservation tariffs, and has the same authority over a proposed conservation tariff as it has over any other schedule which might change rates or charges. A utility applies to the WUTC for a determination as to whether any specific costs incurred constitute an approved conservation investment. Approved bondable conservation investments are included in the rate base.

The WUTC may require that the unamortized portion of bonded conservation investments provided to a customer be removed from the rate base of the company if that customer ceases to purchase utility services from the company. The WUTC may, by rule or order, require that contracts for conservation measures or services between a company and its customers include provisions which require the customer to repay any unrecovered portion of a conservation expenditure made for the benefit of the customer, if the customer ceases to purchase utility services from the company.

The WUTC and utility companies are free to establish any other policies and programs for conservation which are outside the scope of the act.

Procedures are established to allow conservation investments incurred prior to the effective date of the act to qualify as collateral for conservation bonds, upon WUTC approval.

Votes on Final Passage:

Senate	46	3
House	94	0

Effective: June 9, 1994

SB 5697

C 50 L 94

Preempting local regulation of amateur radios.

By Senator Bluechel

Senate Committee on Energy & Utilities
House Committee on Energy & Utilities

Background: Amateur radio operators seeking to erect antenna and support systems are often frustrated or delayed by restrictive local zoning ordinances. While local government actions have been partially preempted by the Federal Communications Commission, amateur radio operators seek to avoid time, expense, and delay challenging local actions that fail to conform to FCC policy.

Summary: No city, town, code city, or county shall enact or enforce regulations that fail to conform to the Federal Communications Commission's limited preemption statement, "Amateur Radio Preemption," 101 FCC 2d 952 (1985). Regulations involving placement, screening, or height of antennas shall be crafted to reasonably accommodate amateur communications, and shall represent the minimal practicable regulation to accomplish local governments' health, safety, and aesthetic concerns.

Votes on Final Passage:

Senate	42	5
House	97	0

Effective: March 23, 1994

2SSB 5698

C 140 L 94

Assisting companies to adopt ISO-9000 quality standards.

By Senate Committee on Trade, Technology & Economic Development (originally sponsored by Senators Bluechel, Skratek, Sheldon, Williams and Erwin)

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing
House Committee on Appropriations

Background: In 1987, the International Organization for Standardization (ISO) published the ISO-9000 series of quality standards. These standards, which have gained wide acceptance internationally, are guidelines for the design and development, production, final inspection and testing, installation, and servicing of products, processes, or services. Adoption of these standards provides a competitive advantage to firms involved in international trade, but many Washington firms are not yet aware of ISO-9000 or the certification process.

Summary: The Department of Community, Trade, and Economic Development, through its Business Assistance Center, shall make ISO-9000 and its American equivalent more widely known to Washington firms. In addition, the department will: assemble information on individuals and organizations providing assistance to firms desiring to become ISO-registered; assemble information regarding Washington firms which have become ISO-registered; survey appropriate sectors to determine the level of interest in receiving ISO-9000 certification; establish a mechanism for businesses to assess the need to become ISO-9000 certified; assist and support organizations currently providing education, screening and certification training; and coordi-

nate the Washington program with other similar state, regional and federal programs.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 1, 1994

SSB 5714

C 186 L 94

Regulating vendor single-interest insurance.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Fraser, Moore and Barr)

Senate Committee on Labor & Commerce
House Committee on Financial Institutions & Insurance

Background: Individuals who borrow money to buy vehicles or boats and who use those vehicles or boats as collateral for loans are generally required by their lenders to carry insurance on the vehicle or boat to protect the lenders' interest. Loan contracts often contain clauses which allow the lender to purchase insurance on the vehicle or boat at the borrower's expense if the borrower fails to carry adequate insurance. This type of insurance coverage is called vendor single interest coverage (VSI) or collateral protection coverage.

Summary: A secured party may charge a borrower for VSI or collateral protection coverage only if the original loan agreement, or a separate document accompanying the original loan agreement and signed by the borrower, discloses the borrower's rights and responsibilities regarding the insurance coverage.

Before a secured party charges the borrower for VSI or collateral protection coverage, that party must send two letters of notice to the borrower. The first letter, sent by first class mail, informs the borrower generally regarding the insurance coverage. The second letter, sent by certified mail, discloses the same rights and responsibilities as the original loan agreement and also discloses the approximate cost of the insurance coverage. The final notice and warning must explain to the borrower whether the secured party is charging the borrower for vendor single interest insurance or for collateral protection coverage.

If the borrower provides evidence that proper insurance has been obtained, the secured party must cease charging the borrower for the insurance coverage. If the underlying loan is satisfied, the secured party may not maintain VSI or collateral protection coverage. If VSI or collateral coverage is cancelled or discontinued, the borrower will be refunded the amount of unearned premium The secured party has the option of applying any refund for the insurance coverage against the borrower's outstanding balance.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 9, 1994
January 1, 1995 (Sections 1-5)

2SSB 5800

C 53 L 94

Increasing the penalty for violating human remains.

By Senate Committee on Law & Justice (originally sponsored by Senators Nelson, A. Smith and Winsley)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Current statutes provide criminal penalties if a person mutilates, disinters, or removes human remains from the place of interment without authority of law. It has been suggested that sexual contact with a deceased person should also be prohibited.

Summary: A person who has sexual contact or sexual intercourse with a dead human body is guilty of a class C felony. The crime is added to the criminal code and ranked at seriousness level V for the purposes of the Sentencing Reform Act.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: June 9, 1994

SSB 5819

C 269 L 94

Authorizing voting by mail for any primary or election for a two-year period.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Vognild and Quigley)

Senate Committee on Government Operations
House Committee on State Government

Background: County auditors may conduct primaries or elections by mail in precincts with fewer than 200 registered voters. Any county, city, town or district requesting a nonpartisan special election not being held in conjunction with a state primary may request that the election be conducted by mail. The county auditor may honor or deny such a request.

When conducting a primary or election by mail in a precinct with fewer than 200 voters, ballot request forms are mailed to all voters in the precinct no later than 15 days prior to the primary or election. A mail ballot shall be

issued to each voter who returns an application no later than the day of the primary or election.

When conducting a nonpartisan special election by mail, the ballots shall be mailed to the voters no later than 15 days prior to the election.

All mailings will include a preaddressed return envelope.

Summary: The county auditor may conduct elections by mail in any precinct, in any primary, special or general election during the two-year period commencing with the effective date of this act.

Votes on Final Passage:

Senate	34	13
House	93	0

Effective: June 9, 1994

3SSB 5918

C 270 L 94

Allowing ride-sharing incentives to include cars.

By Senate Committee on Ways & Means (originally sponsored by Senators Drew, Sellar, Vognild, Bluechel and Winsley)

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

Background: Major employers (100 or more employees) in the state's eight largest counties are currently required to implement commute trip reduction programs to reduce the number of their employees traveling by single-occupant vehicles to their work sites. Large and small businesses argue that particular tax incentives will make it easier for them to meet the Commute Trip Reduction Law requirements.

Summary: Major employers in the state's largest counties affected by the commute trip reduction law are allowed to take a credit on their business and occupation tax or public utility tax if they provide financial incentives to their employees for ride-sharing in carpools with four or more persons.

Major employers may apply for a tax credit of up to $60 per person per year with a limit of $200,000 per employer per year. There is a cap on the program of $2 million per year.

There is a requirement for an evaluation of the effectiveness of the tax credits.

An administrative process is outlined for applying for the tax credit and for transferring money from the air pollution control account to the general fund. It is a gross misdemeanor to file a false application for the credit. There is a sunset date of December 31, 1996.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	43	0	(Senate concurred)

Effective: June 9, 1994

ESB 5920

C 187 L 94

Changing limits for unemployment compensation deductions.

By Senator Vognild

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

Background: Currently, an individual is considered unemployed and eligible to receive unemployment insurance (UI) benefits if he or she has worked less than full time under some circumstances.

An individual receiving unemployment benefits is required to report any weekly wages to the Employment Security Department. The individual's weekly benefit amount is then adjusted by subtracting 75 percent of the earnings (above $5) from the claimant's weekly benefits, e.g., $200 in weekly UI benefits, $105 weekly earnings results in an adjusted weekly benefit amount of $125.

Summary: A pilot project to encourage individuals drawing unemployment insurance to seek reemployment is established within the Department of Employment Security. For the purposes of the pilot project, the following provisions apply:

(1) The definition of "unemployed" is modified to include an individual that has worked less than full time or is paid less than one and one-half their weekly benefit amount plus $15, e.g., $200 weekly UI benefits, earnings less than $300 plus $15 individual is considered unemployed.

(2) The method of adjusting a UI beneficiary's weekly benefits due to earned income is changed to weekly benefit amount minus 66 2/3 percent of weekly wages above $15, e.g., $200 weekly UI benefits, $115 weekly earnings results in an adjusted weekly benefit amount of $133.33.

Appropriation: $400,000 from the unemployment insurance trust fund.

Votes on Final Passage:

Senate	44	4	
House	95	0	(House amended)
Senate	33	9	(Senate concurred)

Effective: June 9, 1994

ESSB 5995

C 141 L 94

Penalizing reckless endangerment of highway workers.

By Senate Committee on Transportation (originally sponsored by Senators Skratek, Erwin, Vognild, Drew, Winsley, Sheldon, Pelz, Nelson, McAuliffe and M. Rasmussen)

Senate Committee on Transportation
House Committee on Transportation

Background: In 1992 approximately 900 accidents reported by the Washington State Patrol occurred within highway work zones in District 1. Recently, an employee of the Department of Transportation was struck and killed while working on a highway construction project.

A Work Zone Safety Task Force was convened during the interim to study the problem. Drivers speeding through work zones were found to create a substantial risk of injury or death to flaggers and other construction crew within highway work zones.

Under current law, no distinction is made between persons who speed near work zones and persons speeding on other areas of the highway. Speeding is a violation of RCW 46.61.400, and a traffic infraction ranging anywhere from $25 to $165 may be imposed, depending on the speed of the vehicle.

In addition to the monetary penalty, the State Patrol may issue a ticket for reckless driving, which is a gross misdemeanor punishable by imprisonment of not more than one year and by a fine of no more than $5,000. Any person convicted of reckless driving has his or her license suspended for at least 30 days. However, to convict a driver of reckless driving, the state must prove the person was driving with willful or wanton disregard for the safety of others.

Summary: Persons who speed in construction zones on any public roadway are subject to double fines that cannot be reduced, suspended or waived. Persons who drive negligently in construction zones or who remove, evade or purposely strike safety devices are guilty of "endangerment of roadway workers," punished as a gross misdemeanor and a suspended license of 60 days.

Votes on Final Passage:

Senate	45	0	
House	97	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: March 28, 1994

SSB 6000

C 51 L 94

Authorizing the state parks and recreation commission to secure abandoned vessels.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Talmadge, Winsley and Oke; by request of Parks and Recreation Commission)

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

Background: The Parks and Recreation Commission manages numerous marine facilities used by boaters. Some vessel owners have abandoned their vessels at park facilities. Others have left their vessels at park facilities for much longer than allowed and have failed to pay the required moorage charges. Sometimes these abandoned vessels and vessels left without authorization have sunk or resulted in gasoline or oil discharges into marine waters.

Summary: The Parks and Recreation Commission is authorized to "secure" vessels located on park property without authorization; present a nuisance or threat to the environment, public health or park property; or are in danger of sinking.

The commission is authorized to hold a "secured" vessel until the vessel owner makes arrangements with the commission for the vessel's removal and pays the commission for securing the vessel, back moorage fees, and other amounts owed. If the vessel is not claimed within a certain period, the vessel is considered abandoned and the commission is authorized to sell it to the highest bidder at a public sale. The commission must provide detailed notices of vessel securing and sale.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994

SB 6003

FULL VETO

Protecting children from sexually explicit films, publications, and devices.

By Senator A. Smith, Quigley, L. Smith, Haugen, Oke, Nelson, McAuliffe, Ludwig and Franklin

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Washington law prohibits the sale, distribution, or exhibition of materials which have been determined by a court to be erotic. Erotic materials are those which appeal to the prurient interest of minors in sex, are patently offensive, and are utterly without redeeming so-

cial value. A person who violates these provisions is guilty of a misdemeanor for the first offense, a gross misdemeanor for the second offense, and a felony for the third and subsequent offenses. In 1987 the Legislature prohibited allowing minors on the premises of commercial establishments where there is a live performance which contains erotic material. Violation of this provision is a gross misdemeanor.

Summary: The statutory prohibitions on distribution or display of erotic materials to minors are repealed. These provisions are replaced with provisions prohibiting the display, sale, or distribution to minors of materials which are "harmful to minors." "Minor" means a person under age 17.

Matter which may be harmful to minors includes live performances and written, auditory, and visual materials which: (1) the average adult person, applying contemporary community standards, would find appeals to the prurient interest of minors; (2) depicts or describes conduct that under prevailing adult community standards is patently offensive; and (3) lacks serious literary, artistic, political, or scientific value for minors.

A person who knowingly displays, sells, or distributes material harmful to minors, or allows the minor to view or listen to such materials, or brings a minor to a live performance which is harmful to minors is guilty of a gross misdemeanor, punishable by up to one year in jail and up to a $5,000 fine.

Each day a person violates the act constitutes a separate offense.

If the material is kept behind devices that cover the lower two-thirds of the matter, it will not be deemed to be displayed.

In any prosecution, affirmative defenses available are: (1) the minor's parent or guardian disseminated the material for bona fide purposes; (2) the parent or guardian of the minor has given written permission for the minor to view the material for bona fide purposes; or (3) a reasonable attempt was made to ascertain the true age of the minor by not relying solely on the oral allegations or apparent age of the minor.

Exemptions from the provisions are as follows: (1) official circulations of material by historical societies or museums, libraries of colleges or universities, archives or libraries under the supervision and control of the state, county, city, or other political subdivisions; (2) the official distribution or use of material by a public school; (3) the official distribution or use of material by a health care provider or health agency under the supervision and control or funded in whole or in part by the state, county, city, or other political subdivision of the state; (4) contraceptive devices; or (5) depictions of a female breast feeding an infant.

No person shall be vicariously liable for the conduct of agents, employees, or employers who violate the act except as provided in the corporation liability statute. That statute is amended to provide that a corporation will not be liable for the conduct of an agent who violates the act if the agent is not a member of the board of directors or a person in a high managerial position.

Votes on Final Passage:

Senate	46	1	
House	82	13	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	45	0	(Senate concurred)

VETO MESSAGE ON SB 6003

April 1, 1994

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. 6003 entitled:

"AN ACT Relating to the well-being of Children;"

Senate Bill No. 6003 attempts to clarify obscenity laws in our state as they apply to minors. The issue of pornography is one of the most emotionally charged issues before our courts and lawmakers. We must protect our most valuable resource—our children—and I know that was the legislature's well meant intention. However, that is not what Senate Bill No. 6003 does, and it also endangers some of our most important freedoms.

Presently the Washington State Supreme Court has a case before it based on a 1992 statute which added "sound recordings" to the list of materials able to be classified as erotic. The Court has not yet rendered its opinion in this case. This decision is expected to offer guidance and interpretation to the constitutionality of our present law.

Until we hear from the State Supreme Court, a number of questions remain as to the constitutionality of the present laws and, therefore, the appropriateness of any attempted revisions to those laws. Senate Bill No. 6003 is overly broad, vague and ambiguous in a number of respects. This raises important questions as to the bill's constitutional survivability.

The bill also contains provisions which are troubling and, by all signs, unintended. Senate Bill No. 6003, as well as present law, offer special protections to minors. However, the current law defines a minor as anyone under eighteen years of age, while this bill changes the definition to anyone under seventeen years of age. Senate Bill No. 6003 would actually allow more children to be exposed legally to the very material where access is sought to be limited. Further, under the provisions of Senate Bill No. 6003, an individual store clerk could be held criminally liable for selling material later held to be harmful to minors, while those who actually profit from such materials would be explicitly protected from liability.

We must make every effort to protect our children, and we must be likewise vigilant in protecting the fundamental freedoms they will grow to cherish. While there may be disagreement on the particular materials or circumstances from which our children require protection, there is widespread agreement on the need to adequately insulate our children from the proliferation of violence and other obscenity permeating our society. I look forward to working with the legislature, scholars, prosecutors, and citizens to craft, as necessary, changes or additions to current law which are narrowly tailored to address the problem in an enforceable, practical, and constitutionally sound manner.

For these reasons, I am vetoing Senate Bill No. 6003 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 6006

PARTIAL VETO

C 8 L 94

Concerning the judicial information system.

By Senate Committee on Ways & Means (originally sponsored by Senators A. Smith and Nelson; by request of Administrator for the Courts)

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

Background: The Office of the Administrator for the Courts has indicated that additional computer capacity is necessary to provide adequate support to the courts. Increased capacity would also permit a number of district and municipal courts to use and share those services.

Summary: The funds in the judicial information system account are to be used to provide an adequate level of Judicial Information Systems (JIS) services to the judiciary, in addition to access for noncourt users.

To support the JIS account, the Supreme Court is authorized to provide by rule for the following increases in assessments: the base monetary penalty for each infraction by $10; a $10 mandatory appearance assessment on convicted defendants in courts of limited jurisdiction; and a $10 assessment for each traffic infraction account for which a person requests a time payment schedule. These assessments may not be waived or suspended. The Supreme Court is requested to adjust these assessments for inflation.

Votes on Final Passage:

Senate	41	6
House	94	0

Effective: June 9, 1994

Partial Veto Summary: The Governor vetoed the emergency clause.

VETO MESSAGE ON SB 6006-S

March 21, 1994

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. 6006 entitled:

"AN ACT Relating to the judicial information system;"

This bill amends current law relating to the judicial information system and allows the Supreme Court to increase by rule fines, penalties and assessments for deposit into the judicial information system account. Funds from these increases will be dedicated to upgrading the computer information network utilized by the courts.

Section 3 of this bill is an emergency clause. Immediate implementation as provided by this section would not provide sufficient time for all jurisdictions to effect changes necessary to fully implement this legislation. For this reason, I have vetoed section 3.

With the exception of section 3, Substitute Senate Bill No. 6006 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 6007

C 271 L 94

Revising provisions relating to crimes.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson)

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Corrections
House Committee on Appropriations

Background: Changes were suggested in the definition of and penalty for certain crimes.

Attempted Murder: Attempted murder in the second degree is currently a class B felony with a maximum sentence of ten years in prison. The standard range under the Sentencing Reform Act is 75 percent of the range for murder in the second degree. If an offender has prior convictions, the standard range may exceed ten years. It is suggested that attempted murder in the second degree should be a class A felony with a maximum sentence of 20 years to allow imposition of the full standard range.

Witness Intimidation and Tampering: This is a particular problem in cases of child abuse and neglect because the victim is often most vulnerable to influence from the defendant or others just prior to reporting the crime. It has been suggested that these statutes be amended to specifically reference intimidation occurring prior to reporting a crime.

Child Molestation: There have been some cases involving adults ordering a child to molest another child for the adult's gratification. Current child molestation statutes do not prohibit this activity.

DNA Identification: In 1989, the Legislature provided that any individual convicted of a felony sex or violent offense must have a blood sample drawn for purposes of DNA identification analysis. It has been suggested that this provision be extended to juveniles adjudicated guilty of equivalent offenses.

Toxicologist as Witness: Under court rules, the state toxicologist can be required to appear to testify about the simulator solution used in the breath test instrument, if requested to appear at least seven days before the trial. This results in numerous requests for the appearance of the toxicologist. Upon appearance, however, the defense attorney often will stipulate to admission of a certificate and the toxicologist is not required to testify. It has been suggested

that the defendant should be required to give earlier notice of intent to require the toxicologist's appearance.

Restitution: Statutes in the Sentencing Reform Act conflict on whether an offender remains under the court's jurisdiction for restitution monitoring for ten years from the imposition of the sentence or ten years from release from total confinement.

Bail Jumping: Separate statutes defining the crime of bail jumping have created confusion. It is proposed that the comprehensive statute found in the criminal code be retained, and the other provision which applies only to failure to appear after release on personal recognizance be repealed.

Stalking: Since the stalking statute was enacted in 1992, law enforcement officials and prosecutors have discovered problems implementing the statute. In some cases, it cannot be shown that the victim was followed. Also, not all protection orders trigger enhancement of the crime from gross misdemeanor to class C felony level. Suggestions have been made for other circumstances which should make the crime a class C felony.

Discharge of Offenders: In felony cases where the standard range does not exceed 12 months of incarceration, the court may impose a term of community supervision in addition to other penalties. It has been suggested that offenders who complete all requirements of their sentence should be allowed to request early termination from supervision.

Siting of Correctional Facilities: The Department of Corrections has no specific requirements in statute for public participation or notification before or during the siting of a correctional facility.

Summary: Attempted Murder: The crime of attempted murder in the second degree is a class A felony.

Witness Intimidation and Tampering: The crimes of bribing, intimidating a witness, and tampering with a witness include inducing a person to refrain from reporting information relevant to a criminal investigation or the abuse or neglect of a minor child.

Child Molestation: The crimes of child molestation first, second, and third degree and sexual misconduct with a minor first and second degree include knowingly causing another person under the age of 18 to have sexual contact with a child.

DNA Identification: Beginning on July 1, 1994, juveniles adjudicated guilty of a sex offense or a violent offense are required to have a blood sample drawn for purposes of DNA identification analysis.

Toxicologist as Witness: The defendant may subpoena the toxicologist who conducts the analysis of the simulator solution used in the alcohol/breath testing equipment if the defendant gives the state toxicologist notice of intention to do so at least 30 days prior to issuing a subpoena.

Restitution: For purposes of monitoring payment of restitution, felony offenders remain under the court's jurisdiction for a maximum of ten years from release from total confinement or ten years from entry of the judgment and sentence, whichever period is longer.

Bail Jumping: The statute providing a criminal penalty for failure to appear before the court after release on personal recognizance is repealed.

Stalking: The elements of the crime of stalking are changed and clarified. A person is guilty of stalking if the person harasses or repeatedly follows another person and the victim was in fear of injury to person or property. The terms "follows," "harasses" and "repeatedly" are defined. The definition of "follows" expressly provides that it is not necessary to prove that the alleged stalker followed the victim in transit from one location to another.

Stalking is a class C felony if: the stalker violates any protective order protecting the victim; the stalker was armed with a deadly weapon while stalking the victim; the victim is or was a law enforcement officer, judge, juror, attorney, legislator, victim advocate, or community corrections officer and was stalked to retaliate for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or the victim is a current, former or prospective witness and was stalked as a result of the witness' testimony or potential testimony.

Violation of a temporary or permanent protective order is a crime of harassment.

A juvenile charged with felony stalking may not be characterized as a minor or first offender under the juvenile offender disposition grid.

Discharge of Offenders: An offender on community supervision for a crime other than a violent offense or a sex offense may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision. The offender must have completed at least one-half of the term of supervision and must have met all other sentence requirements.

Siting of Correctional Facilities: The Department of Corrections is required to establish a process for notice and public participation in establishing work release and other community-based facilities. The department is required to send notification and hold public hearings when three or fewer sites have been proposed for final consideration. An additional round of public notification and a public hearing must be conducted in the local community selected as the final proposed site.

Notification must be provided to newspapers, local radio stations, television stations and cable networks. School districts, private schools, kindergartens, city and county libraries, other local government offices and residents within a radius of one-half mile must be notified about the proposed facility siting. In addition, the department is required to provide notice to the local chamber of commerce, economic development agencies and any other local organizations that request notification.

Votes on Final Passage:

Senate	43	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	96	0	
Senate	45	0	

Effective: June 9, 1994
July 1, 1994 (Section 1001)

SSB 6018

C 272 L 94

Expanding the uses of the excise tax on the sale of real property.

By Senate Committee on Government Operations (originally sponsored by Senators Winsley and Haugen)

Senate Committee on Government Operations
House Committee on Local Government

Background: In 1982, all counties, cities, and towns were authorized to impose an excise tax on each sale of real property at a rate not exceeding one-quarter of 1 percent of the selling price. For counties, cities, and towns under 5,000 population that are required or choose to plan under the Growth Management Act or any county, city or town that does not plan under the Growth Management Act, the revenues from this excise tax must be used for local capital improvements. A question has been raised as to whether or not revenues from this tax may be used for the acquisition of real and personal property associated with the local capital improvement.

A question has also been raised as to whether or not revenues from this tax may be used by these entities for capital projects other than those listed in the city local improvement district statute.

Summary: It is clarified that counties, cities, and towns under 5,000 population planning under the Growth Management Act and any county, city, or town not planning under the Growth Management Act may use the revenues from the 1982 one-quarter of 1 percent real estate excise tax for the acquisition of real property and personal property associated with a local capital improvement. It is further clarified that these entities may expend this revenue on any capital purpose identified in a capital improvement plan.

Votes on Final Passage:

Senate	43	2	
House	95	0	(House amended)
Senate	42	1	(Senate concurred)

Effective: June 9, 1994

SB 6021

C 54 L 94

Providing a procedure for consolidation or dissolution of emergency service communication districts.

By Senators Haugen and Winsley

Senate Committee on Government Operations
House Committee on Local Government

Background: In lieu of providing a county-wide system of emergency service communication, the legislative authority of any county may establish one or more less-than-county-wide emergency service communication districts for the purpose of providing and funding emergency service communication systems. The legislative authority of a county may impose a county enhanced 911 excise tax on the use of switched access lines in an amount not exceeding 50 cents per month for each switched access line. The state also imposes a state enhanced 911 excise tax at a rate not to exceed 20 cents per month for each switched access line until December 31, 1998. Thereafter, the state tax cannot exceed 10 cents per month for each switched access line.

No statutory provisions authorize either the dissolution or consolidation of less-than-county-wide emergency service communication districts.

Summary: Following a public hearing on the issue, a county legislative authority may consolidate less-than-county-wide emergency service communication districts, if the county legislative authority finds the action to be in the public interest and adopts a resolution providing for the consolidation.

A less-than-county-wide emergency service communication district may be dissolved in the same manner as above. The county legislative authority must specify the manner in which dissolution is to be accomplished and must supervise the liquidation of any assets and the satisfaction of any outstanding indebtedness.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 9, 1994

SB 6023

FULL VETO

Transferring emergency management functions from the department of community development to the military department.

By Senators Winsley and Haugen

Senate Committee on Government Operations
House Committee on State Government

ESB 6025

Background: Since World War II, the state's functions relating to emergency management (disaster planning and response) have been organizationally separate from the Military Department. The original structure was the old Civil Defense Department. In 1986, it was merged into the Department of Community Development as the Division of Emergency Management.

In most instances, emergency management personnel are civilians, and can be mobilized to assist with disasters. However, in any major disaster (like the eruption of Mount St. Helens in 1980) the Governor mobilizes the Military Department and assigns it the command responsibility.

In 24 states, both functions are performed under the umbrella of the Military Department itself. It has been reported that this combination has increased timely response, efficiency and coordination. The most recent examples have been demonstrated in the severe flood conditions in the Midwest this past summer.

Summary: The Military Department, instead of the Department of Community Development (DCD), administers the state's comprehensive emergency management program.

The term "director" is defined to mean "adjutant general" for purposes of administering emergency management functions.

Provision is made for the standard transfers of powers and duties, personnel and equipment, rules and pending business and other generic functions from DCD to the Military Department.

The current policy of the Department of Community, Trade, and Economic Development is codified relating to reimbursement of out-of-jurisdiction fire fighters called into service under a mobilization plan.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

VETO MESSAGE ON SB 6023

April 2, 1994

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. 6023 entitled:

"AN ACT Relating to emergency management;"

This legislation would transfer the emergency management function from the Department of Community, Trade and Economic Development to the Military Department.

The state role in emergency management is an extremely important one. Under state law, local governments have prime responsibility for protecting the public's health and safety. The state's role is to assist local governments in planning, for responding to, and recovering from emergencies and disasters of all kinds. As governor, I have responsibility for public health and safety statewide, and I take this responsibility seriously. Actions that affect the state's capacity to plan for and respond to emergencies are of critical importance to me.

I believe that a review of how to best organize the state's ability to plan for and respond to emergencies and other public safety needs is both reasonable and appropriate. The Department of Community Development was given responsibility for emergency management in 1986 because of the need to better coordinate state emergency management activities with local governments and with other agencies and to provide a more effective emergency planning, response, and recovery capability for the state in the event of an emergency.

While the Military Department is both capable and responsive, it is not clear that simply transferring emergency management responsibilities from the Department of Community, Trade and Economic Development, in and of itself, will significantly improve the ability of the state to plan or respond to emergencies.

Effective emergency management requires extensive state and local planning. It involves the highest degree of readiness and effectiveness when an emergency occurs, backing up local response with state resources and personnel if needed. It involves the ability to quickly identify local losses and needs, to fund recovery as rapidly as possible and to cover these costs until federal reimbursement arrives. All of these activities require close coordination between state and local emergency managers and between many state agencies.

Rather than transferring the existing division from one agency to another, the state should review all of these issues and other public safety concerns as well to assure that the state has the best capacity to respond to emergencies and the strongest ability to protect the public safety.

For these reasons, I have vetoed Senate Bill No. 6023 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESB 6025

C 273 L 94

Changing provisions relating to cities and towns.

By Senators Winsley and Haugen

Senate Committee on Government Operations
House Committee on Local Government

Background: A special election is held to determine whether city or town limits should be reduced when a petition is received requesting the reduction. The petition must be signed by qualified voters of the city or town equal to not less than one-fifth of the votes cast in the last municipal election. Notice of the election is published at least four weeks prior to the election. This notice is in addition to the notice normally required for elections.

Every town (municipal corporation of the fourth class) is authorized to purchase, lease, receive, and hold real and personal property and dispose of it for the common benefit. The wording of this authorization is not exactly the same as for cities of the first, second, or third class. Therefore, questions have arisen as to whether or not the authorization for towns is different from the cities.

The legislative body of any city, town, county, or special taxing district must review and approve all pending claims and warrants at each regular meeting. Except in the

smaller cities, council meetings are held every week. It has been suggested this process could be conducted less frequently with no loss of prudent oversight.

Cities receive two distributions from the state MVET for local criminal justice assistance. The first distribution of 1.1937 percent of the MVET is based on crime rates in excess of 125 percent of the statewide average. The second distribution of 1.1937 percent of the MVET is based on six allocations, one of which is a 20 percent allocation based on violent crime rates. Certain allocations of this second distribution are distributed semi-annually.

Summary: The petition requesting the reduction of city or town limits must be signed by at least 10 percent of the number of voters voting at the last general election. Alternatively, the city or town legislative body may, by resolution, submit a proposal for reduction to the voters. The submitted proposal is submitted at the next general municipal election if one occurs within 180 days of either the certification of sufficiency of the petition or the passage of the resolution. Otherwise, a special election may be held. Publication is required once each week for two consecutive weeks preceding the election. The requirement for a second type of notice is deleted.

The rights, obligations, and duties with regard to the operation of a public service business or utility in the excluded area transfer to the county or political subdivision with jurisdiction over the area.

Towns are authorized to lease, sublease, or convey real or personal property with the same language as is used for other cities.

The legislative bodies of cities and towns are authorized to conduct the formal review of claims and warrants at a regularly scheduled public meeting within one month of issuance.

Moneys remaining undistributed under the 20 percent allocation based on violent crimes at the end of the calendar year shall be distributed to the Criminal Justice Training Commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training. Certain allocations of the second distribution to cities are made quarterly (rather than semi-annually).

Distributions from the state excise tax on fire insurance premiums may be made to cities with pre-LEOFF pension systems that are annexed by fire protection districts.

A city under 20,000 population may condemn cemetery property before January 1, 1995, to improve a street, if no interment plots containing human remains are affected.

Language is added to the local government whistleblower law prohibiting coercion of employees who wish to report wrongdoing.

Certain provisions of the state's model day care ordinance are codified. Cities and towns are allowed to require proof that immediately adjacent neighbors know the facility is going to operate.

Votes on Final Passage:

Senate	46	0	
House	96	1	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	88	6	
Senate	42	2	

Effective: April 1, 1994 (Section 22)
June 9, 1994

SSB 6028

C 55 L 94

Changing provisions relating to local option elections within cities, towns, and counties.

By Senate Committee on Government Operations (originally sponsored by Senators Winsley and Haugen)

Senate Committee on Government Operations
House Committee on Commerce & Labor

Background: Cities and counties are preempted by the state from licensing the sale of liquor. Cities and counties do, however, have authority over the issue of whether liquor can be sold at all within their boundaries. This is done by a vote of the population in a local option election unit. These units are defined by the geographical boundaries of the city or all that portion of any county not included within the limits of incorporated cities and towns.

Additionally, cities and counties may rule by a similar vote on the narrower question of whether to allow the sale of liquor under class H licenses within the local option election unit.

By holding elections such as these, the local option election unit declares its "local option status" colloquially known as becoming "wet" or "dry" within the boundaries of the unit. If the election is held on the class H license issue, the result determines whether the sale of "liquor by the drink" is allowed within the boundaries of the unit.

When a city annexes territory in a county, the question arises as to the "wet" or "dry" status of the territory so annexed, or in the case of the class H licenses, whether liquor may be sold by the drink. Because a city is a separate legal entity from a local option election unit, annexation does not affect the local option status either of the city or the annexed territory. Local option status, once adopted, is usually considered to attach to the territory which was originally bound by the vote and does not change unless lawfully changed. The right to change the local option status in a local option election unit belongs only to the people of such unit.

Be this as it may, the effect of annexation on class H liquor licensees is perceived to be murky. The consequent uncertainty has led to, perhaps, unnecessary difficulties in annexation campaigns.

Summary: It is clarified that annexation by a city does not extend that city's prohibition against the sale of liquor under class H liquor licenses to the territory of the county so annexed. Only another election held by the expanded election unit can decide the question of whether liquor by the drink may be sold within the new election unit.

Votes on Final Passage:

Senate	44	1
House	98	0

Effective: June 9, 1994

SB 6030

C 31 L 94

Reenacting bidding procedures for water and sewer districts.

By Senator Haugen

Senate Committee on Government Operations
House Committee on Local Government

Background: During the 1993 legislative session two bills were enacted which amended parallel sections of the titles dealing with water districts and sewer districts. The double amendments are mutually exclusive and do not conflict in their intent, but do involve some common phrasing.

The affected sections establish standards and procedures for letting contracts. One amendment adopted a uniform procedure to let bids for small works projects. The other amendment modified the basis for rejecting bids.

In order to properly codify these amendments, it is necessary to reenact the affected sections reconciling the amendatory language. This reenactment has been recommended by the Law Revision Commission.

Summary: Two sections of law, one in the title on water districts, and a parallel section in the title on sewer districts are reenacted to eliminate a double amendment.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 9, 1994

ESB 6037

C 56 L 94

Increasing the reward for information regarding certain violations.

By Senators Owen and Oke

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

Background: The Department of Natural Resources is currently authorized to offer up to $1,000 for information regarding violations of any statute or rule relating to the state's public lands or natural resources. Fines for violations of the Forest Practices Act are presently in law.

The number of public use abuse incidents on state land is increasing. Raising the reward limit from $1,000 to $10,000 is viewed as an incentive for the public to report incidents which could be a deterrent to preventing theft and abuse.

In 1989, an inventory identified 1,683 dumpsites on state land and a 1992 inventory of high-priority sites for clean up identified 113 sites with an estimated clean-up cost of $207,000. Illegal dumping continues to increase on state lands and at the present time, as many as 2,355 illegal dumps exist on state lands with a potential cost of $855,000. Substantial damage to standing timber is affecting the income from the state's trust lands.

Summary: The Department of Natural Resources is authorized to offer and pay a reward up to $10,000 for information regarding violations of any statute or rule relating to the state's public lands and the state's natural resources. The rules, regulations and statute authorizing forest practices in Title 76.09 are excluded from the reward system.

The department is authorized to adopt rules to establish criteria for paying for the award and for the amount of such awards.

The department is authorized to determine the appropriate account or fund from which to pay the reward. No appropriations are required to make the reward.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 9, 1994

SSB 6039

C 274 L 94

Establishing procedures for changing a vehicle dealer's relevant market area.

By Senate Committee on Transportation (originally sponsored by Senators Gaspard, Prince, Vognild, Nelson and Erwin)

Senate Committee on Transportation
House Committee on Transportation

Background: The establishment of new car dealerships is not currently restricted by statute and few manufacturers' new motor vehicle franchise agreements provide a means for resolving disputes relating to the establishment or relocation of a new motor vehicle dealer.

There are approximately 385 new motor vehicle dealerships located in Washington State.

Summary: New motor vehicle franchisees are allowed to protest the establishment or relocation of a same line motor vehicle dealership within a geographic area.

A "relevant market area" is established around each new motor vehicle dealership. A relevant market area is a geographic area measured in miles. In the case of a county with a population of over 400,000, the relevant market area is the area within a radius of eight miles around the proposed site. In the case of a county with a population between 200,000 and 400,000 the relevant market area is the area within a radius of 12 miles around the proposed site. In the case of a county with a population under 200,000, the relevant market area is the area within a radius of 16 miles around the proposed site.

A manufacturer shall not coerce a dealer to waive the rights provided for by this legislation.

This act applies to all franchisees and contracts existing on October 1, 1994.

If a manufacturer intends to establish or relocate an existing new motor vehicle dealership of the same line, within a relevant market area of an existing dealer or dealers, the manufacturer must provide 60 days notice to all same line dealerships in that relevant market area. Notice requirements include the location, date of opening, identity of all impacted existing same line dealerships, names of principal investors and the specific grounds for the establishment of an additional or relocation of an existing dealership.

Procedures are established for an existing dealership to protest the establishment or relocation. Upon filing of a protest and receipt of the filing fee, the Department of Licensing shall promptly notify the manufacturer and request the appointment of an administrative law judge.

If a franchise agreement calls for arbitration, then the provisions of this legislation that provide for an administrative law judge do not apply.

The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.

The administrative law judge shall consider 12 points established in this legislation as to whether good cause exists for the proposed establishment or relocation. These 12 points range from: investment information; population and vehicle registration information in the relevant market area; to whether or not the manufacturer has provided the existing dealership(s) of the same line with the opportunity for reasonable growth, market expansion, establishment of a subagency, or relocation. The administrative law judge shall consider all 12 points and any other relevant facts. All 12 points are to be given equal weight, and at least nine of the 12 points must weigh in favor of the manufacturer establishing or relocating a new dealership.

The administrative law judge shall hold a hearing or hearings as provided for by the state Administrative Procedure Act. The administrative law judge shall render the final decision within 120 days after the protest is filed. An appeal process is provided for in current statute.

Specific situations are set forward that preclude the application of this legislation; for example, if a proposed relocation of an existing dealership is two miles or less from the existing location.

A motor vehicle dealership that exclusively markets vehicles of 19,000 pounds gross vehicle weight and above is exempt from the provisions of this legislation.

Votes on Final Passage:

Senate	39	9	
House	93	3	(House amended)
Senate	37	7	(Senate concurred)

Effective: June 9, 1994

ESB 6044

C 188 L 94

Changing residency status of Native Americans for purposes of higher education tuition.

By Senators Bauer, Prentice and Sheldon; by request of Washington State University

Senate Committee on Higher Education
House Committee on Higher Education

Background: Washington has a number of native American tribes whose traditional and customary tribal boundaries include portions of the state of Washington and also portions of other states (Idaho and Oregon, primarily). Many of these tribes were granted reserved lands in the state of Washington, along with reserved lands in other neighboring states.

Summary: Members of 32 specific native American tribes, whose traditional boundaries include part of the state of Washington, or whose tribe was granted reserved lands within the state, shall be considered residents of Washington for the purposes of tuition at state institutions of higher education. To be considered a resident for tuition purposes, a member of one of the listed tribes must be domiciled in Washington, Oregon, Idaho or Montana.

No state general fund moneys will be appropriated to state colleges or universities for the purpose of supporting students paying resident tuition solely as a result of this act. Such students shall not be included in any calculation of state-funded enrollment for budgeting purposes.

Votes on Final Passage:

Senate	36	12	
House	98	0	(House amended)
Senate	36	10	(Senate concurred)

Effective: June 9, 1994

SSB 6045

C 189 L 94

Authorizing an additional ten years for execution of judgments.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Nelson and Haugen)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Under current law a person who has obtained a judgment in a court of record in this state may enforce that judgment for ten years after the date the judgment was entered. There are times when the person who won the judgment is unable to collect the amount owed within ten years. For example, a debtor may be paying the judgment, but does not earn enough to pay the amount owed within the ten-year period. In other cases debtors move away, but return after the enforcement period has passed.

At least 21 states have adopted a period greater than ten years in which judgments can be enforced.

Summary: A party who has been awarded a judgment may apply within 90 days before the original ten-year enforcement period expires for an additional ten-year extension. The party seeking the extension must pay a fee equal to the filing fee for a civil complaint and must submit an updated judgment summary.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: June 9, 1994

SSB 6047

PARTIAL VETO

C 275 L 94

Revising provisions relating to crimes involving alcohol, drugs, or mental problems.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Quigley and Oke)

Senate Committee on Law & Justice
Senate Committee on Transportation
House Committee on Judiciary

Background: Under current law a person charged with driving while intoxicated is allowed by a court to enter a deferred prosecution program and avoids the possibility of being found guilty of the charge as long as he or she successfully completes the treatment program. A person is not eligible for a deferred prosecution program more than once in a five-year period. If a person on deferred prosecution fails to meet any of the requirements of the treatment plan, the treatment provider must notify the court, the prosecutor, and the person's attorney. The court dismisses the pending charges if the person successfully completes the two-year treatment plan and does not have any convictions for similar offenses during the two-year period. It is believed that the terms and conditions of deferred prosecution are often violated without the appropriate consequences ensuing.

Washington law currently allows a person charged with a DUI to keep his or her driver's license until the end of all legal proceedings, including appeals, due to automatic stay provisions in the statutes. There is concern that this provides a strong incentive for defendants to delay and litigate which in turn drives up caseloads and costs. Thirty-four states have adopted administrative license suspension which removes the license issue from the prosecution of the case.

These and a variety of other DUI issues are addressed.

Summary: DUI Sanctions. A person who is convicted of DUI with an alcohol concentration of at least .10 but less than .15 will be punished by imprisonment for not less than one day nor more than one year, a fine of $350 to $5000, and a suspension of his or her driver's license for 90 days. The court may suspend all or part of the 90 days upon a plea agreement by the prosecutor and the defendant. These sanctions will apply only if the person has not had a conviction of DUI within the previous five years and his or her driver's license is not in a probationary, suspended, or revoked status.

A person who is convicted of DUI with an alcohol concentration of .15 or more or who refuses to submit to the breathalyzer test will be punished by imprisonment for not less than two days nor more than one year, a fine of $500 to $5000 and suspension of his or her driver's license for 120 days. In addition, the person's driver's license is considered to be in a probationary status for five years. These sanctions only apply if the person's driver's license is not in a probationary, suspended, or revoked status at the time of the violation and there is no conviction of DUI within the previous five years.

A person whose driver's license is in a probationary status when he or she violates the law prescribing driving while intoxicated and who has an alcohol concentration of at least .10 but less than .15 will be punished by imprisonment for not less than seven days nor more than one year, a fine of $500 to $5000, and suspension of his or her driver's license for one year.

A person whose driver's license is in a probationary status when he or she violates the law pertaining to driving while intoxicated and who has an alcohol concentration of .15 or more or who refuses to submit to the breathalyzer will be punished by imprisonment for 10 days to one year, a fine of $750 to $5000 and revocation of his or her driver's license for 450 days.

Imprisonment for 90 days to one year, a fine of $750 to $5000, and revocation of one's driver's license for two

years is the punishment for a person who violates the law prescribing driving while intoxicated while also having his or her driver's license in a suspended or revoked status or with a previous conviction of DUI within five years of the current offense.

Whenever a court imposes less than one year in jail, it must suspend a period of confinement for not more than two years. The court is directed to impose conditions of probation including not driving without a valid license and proof of financial responsibility, not driving with an alcohol concentration of .08 or more, and not refusing to submit to a breath or blood test. For each violation of these conditions, the court will require the person to be imprisoned for not less than 30 days.

Probationary Licenses. A probationary license will be issued to a driver who has been granted a deferred prosecution or when a driver with an alcohol concentration of at least 0.10 is subject to administrative license action for the first time. The probationary license will continue for five years, and will allow a police officer to determine that the person is on probationary status for a DUI violation. The fact that a person has a probationary license will not be available to insurance companies through the person's driving record.

Administrative License Suspension/Revocation. Administrative suspension or revocation applies to any minor driver with an alcohol concentration of 0.02 percent or higher, and to any second time adult DUI offender with an alcohol concentration of 0.10 percent or higher. A suspension or revocation will be stayed if the person is granted a deferred prosecution on criminal charges arising out of the same offense that triggered the administrative action. Administrative issuance of a probationary license applies to an adult first-time offender with an alcohol concentration of 0.10 percent or higher.

Alcohol Problem Assessment and Treatment. An alcohol treatment agency that knowingly fails to report a driver's noncompliance with treatment is subject to a $250 fine, and upon a third such failure in a year is subject to loss of its license to provide alcohol treatment.

Driving Records. The Department of Licensing is directed to keep alcohol related driving records for 10 years instead of five. The department is also directed to mask certain information on a driver's record when an abstract of that record is provided to an insurance company. Masked information includes any record of a DUI infraction unless there is a subsequent DUI offense within five years, and any record of a deferred prosecution unless the person has been removed from the deferral for failure to comply with the conditions imposed as part of the deferral.

Vehicular Homicide. The seriousness level of the crime of vehicular homicide is raised from level eight to level nine when the homicide involves DUI. This change means that under the Sentencing Reform Act the presumptive sentence for a first-time offender is three years in prison instead of two.

Ignition Interlock. The ignition interlock law is amended to allow the use of biological devices or other new technologies designed to prevent an intoxicated person from driving.

Lawsuits Against Drunk Drivers. An intoxicated person who is injured by a drunk driver is not barred from recovering damages from the drunk driver unless the injured person's own intoxication was a cause of the accident that resulted in the injury.

Votes on Final Passage:

Senate	39	8	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	96	0
Senate	45	0

Effective: July 1, 1994

Partial Veto Summary: Section 35 was vetoed due to being in conflict with section 19 and the intent of the bill to maintain records for deferred prosecution for ten years.

VETO MESSAGE ON SB 6047-S

April 1, 1994

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 35, Substitute Senate Bill No. 6047 entitled:

"AN ACT relating to crimes involving alcohol, drugs, or mental problems;"

Section 35 of Substitute Senate Bill No. 6047 is in conflict with section 19 of the same bill and contradicts the intent of the bill to maintain records for deferred prosecution for ten years.

With the exception of section 35, Substitute Senate Bill No. 6047 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

2SSB 6053

C 276 L 94

Modifying procedure for providing assistance to county assessors.

By Senate Committee on Ways & Means (originally sponsored by Senators Loveland, Snyder and Haugen)

Senate Committee on Government Operations
Senate Committee on Ways & Means
House Committee on Local Government
House Committee on Revenue

Background: The county assessor is charged with the listing and the valuation of the property of the county. This must be done within a time prescribed by law. In order to accomplish this, he or she may appoint assistants or deputies or may contract with appraisers to assist in the making of these valuations.

The State Department of Personnel maintains a classification and salary plan for employees who act as appraisers.

If the assessor intends to appoint assistants, he or she must so inform both the Department of Revenue and the Board of County Commissioners in writing. A committee is then formed to determine by unanimous vote the required number of appraiser positions and their salaries. This determination is certified to the Board of County Commissioners.

The assessor then may choose to budget for up to the number of positions that the committee has established. The Board of County Commissioners then must allow sufficient funds for the positions so budgeted.

Summary: Once the assessor gives the Department of Revenue and the county legislative authority written notice of his or her intent to implement a classification and salary plan, the committee is then formed. It shall decide by unanimous vote the funding level and the duration to provide adequate appraisers, support staff and computer equipment for the assessor to perform the revaluation program and to place new construction on the tax rolls on a regular annual basis.

After 60 days, the member of the committee who is the representative of the Department of Revenue shall report the committee's unanimous findings to the Director of the Department of Revenue.

The Department of Revenue then shall prepare a contract for the signatures of the assessor and of the Board of County Commissioners.

The contract provides specified funds from the Board of County Commissioners and requires four more provisions which hold the assessor to certain performance requirements. The contract allows a board to withhold the specified funds if the assessor does not perform as required. The performance requirements are for the assessor to add a specified level of new construction to the tax rolls over a specified period of time and to maintain the revaluation cycle.

A new account is created in the custody of the State Treasurer. This account is called the assessors' assistance account. It is only for making loans to counties to fund these contracts. No appropriation is required for expenditures from this account. The county may delay funding the contract until a loan can be made available. The money to repay the loan may come from any fund under the control of the county legislative authority.

The bill is null and void unless funding for the assessors' assistance account is provided in the budget.

Votes on Final Passage:

Senate	35	13	
House	87	7	(House amended)
Senate	29	16	(Senate concurred)

Effective: The act is null and void since no appropriation was made in the budget.

SB 6055

C 4 L 94 E1

Making the minimum salary for county coroners consistent with the salaries of other full time county officials.

By Senators Loveland and Winsley

Senate Committee on Government Operations
House Committee on Local Government

Background: Salary "floors" for county elected officials are set by statute. Historically, in first, second and third class cities, the county coroner's salary floor has been set at roughly one half to one third that of other full-time county elected officials.

Summary: The salary floor for county coroners in counties of one million population or more remains at $18,000. In counties with populations of 210,000 to 1 million, coroners' salaries are raised by $1,100, to become $17,600. In counties with populations of 125,000 to 210,000, coroners' salaries are raised by $7,200, to become $16,000. In counties with populations of 70,000 to 125,000, coroners' salaries are raised by $9,400, to become $14,900. In counties with populations of 40,000 to 70,000, coroners' salaries are raised by $9,800, to become $13,800. This brings the coroners' floors to a level comparable to that of other full-time county elected officials.

Votes on Final Passage:

Senate	39	9	
House	83	11	(House amended)
Senate			(Senate refused to concur)
First Special Session			
Senate			(Amendment ruled beyond scope)
House	71	21	(House receded)
Senate	36	11	

Effective: June 13, 1994

ESB 6057

C 190 L 94

Strengthening restrictions on aliens carrying firearms.

By Senator Ludwig

Senate Committee on Law & Justice
House Committee on Judiciary

Background: It is a misdemeanor for any person who is not a citizen, or who has not declared his or her intention to become a citizen, to possess a firearm, unless the person has obtained an alien license certificate from the Department of Licensing (DOL).

DOL cannot issue such a license until the consul who represents the country of the alien has certified that the alien is a responsible person. According to DOL, some consuls conduct a "background check" on the alien and forward such information to the department.

The cost of the license is $15.

Summary: The requirements for obtaining an alien firearm license are modified. It is a class C felony for an alien to possess a firearm without an alien firearm license. The cost of an alien firearm license fee is raised to $25, and the license must be renewed every four years.

DOL may issue a license if a consul has: (1) given DOL a certified copy of the alien's criminal history indicating the alien is not ineligible under Washington law to own, possess, or control a firearm; and (2) attested the alien is a responsible person.

However, if the alien has resided in the state for at least two years, and (1) is from a country without a consul in this state, or (2) if the consul fails, within 90 days after the alien's request, to provide the certified copy of the alien's criminal history or attestation that the alien is a responsible person, DOL still may issue an alien firearm license if certain conditions are met. In such cases, DOL must ask the local law enforcement agency of the jurisdiction in which the alien resides to complete a background check to verify the alien is not ineligible to own, possess, or control a firearm. The law enforcement agency has 30 days in which to complete the check, unless the alien does not have a valid Washington driver's license or identification card, in which case the law enforcement agency has 60 days to complete the check.

A declared intention to become a United States citizen will no longer qualify an alien for an alien firearm license or a concealed pistol license.

Votes on Final Passage:

Senate	47	0	
House	97	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 9, 1994

SB 6061

C 142 L 94

Revising provisions relating to special elections to validate excess levies or bond issues.

By Senators Vognild, Winsley, Haugen and Sellar

Senate Committee on Government Operations
House Committee on State Government

Background: The election code fixes the dates for general elections, primaries and special elections. Special elections may be called by a county legislative authority if it deems an emergency to exist by presenting a resolution to the county auditor at least 45 days prior to the proposed election date. Special elections may be conducted in conjunction with a general election, a primary, or on specified days in February, March, April or May. In addition to these specified days, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from the failure of a county, school district, or junior taxing district to pass a special levy for the first time, or from fire, flood, earthquake, or other act of God.

It is believed that the failure of a county, school district or junior taxing district to pass an excess levy or bond issue the first time does not justify the potential added expense of scheduling a special election on a date other than on one of the days specified by statute.

Summary: The authority to call a special election at any time to validate an excess levy or bond issue to meet the needs resulting from the failure of a county, school district, or junior taxing district to pass a special levy for the first time is repealed.

The special election date for April is changed from "the first Tuesday after the first Monday" to "the fourth Tuesday."

Votes on Final Passage:

Senate	37	8	
House	96	0	(House amended)
Senate	40	3	(Senate concurred)

Effective: January 1, 1995

SSB 6063

C 191 L 94

Concerning local voters' pamphlets.

By Senate Committee on Government Operations (originally sponsored by Senators Spanel, Winsley, Haugen and Franklin)

Senate Committee on Government Operations
House Committee on State Government

Background: The county auditor notifies each city or town that a voters' pamphlet will be produced. Cities and towns then have a choice to participate or not to participate in a local voters' pamphlet. If the choice is made to participate, then the legislative authority of the city or town appoints a committee to prepare the statement for and against the measure upon which a vote is to be taken. The cost of a local voters' pamphlet is borne by the participating local jurisdictions.

Summary: Not later than 90 days before a county publishes a local voters' pamphlet, the county auditor must notify

each local government located entirely within the county that the pamphlet will be published.

If the pamphlet is for a primary or general election, it must cover all of the offices and ballot measures of the local governments located within the county to be voted upon at the primary or election. However, entries for offices and ballot measures do not have to be included for: a first class or code city that publishes and distributes its own pamphlet; a town or city that is obligated by ordinance or charter to publish and distribute such a pamphlet and that does so; or a jurisdiction for which participation in the pamphlet would create an undue hardship and which has been relieved of this duty by the county legislative authority. In the latter case, the waiver must be provided not later than 60 days before the pamphlet is to be published.

If committees for preparing the arguments for and against the ballot measure for a unit of local government have not been appointed by that local government by the 45th day before the publication of the pamphlet, the county auditor must appoint the committees, whenever possible.

Votes on Final Passage:

Senate	41	8	
House	96	0	(House amended)
Senate	32	10	(Senate concurred)

Effective: June 9, 1994

SB 6065

C 192 L 94

Allowing costs to be imposed against a defaulting defendant.

By Senators Ludwig, Nelson, Wojahn, Fraser, Snyder, Bauer and A. Smith

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Certain costs are associated with the preparation and serving of warrants when a defendant has failed to appear. Under current law, courts may impose costs on a convicted defendant for whom the court has incurred the expense of preparing and serving a warrant. Costs may not be imposed on a defendant against whom the underlying case has been dismissed even if a warrant was prepared and served for a voluntary failure of the defendant to appear.

Summary: Costs, not to exceed $100, may be imposed upon a defendant to cover the expense of preparing and serving a warrant for failure of the defendant to appear at court. These costs constitute a judgment against the defendant at the time of imposition and the judgment survives the dismissal of the underlying action against the defendant. However, if the defendant is acquitted at trial on the underlying matter, warrant costs imposed for failure to appear must be dismissed.

Votes on Final Passage:

Senate	47	1	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	47	0	(Senate concurred)

Effective: June 9, 1994

SB 6067

C 32 L 94

Changing the Washington state magistrates' association.

By Senators Wojahn, Ludwig, Nelson, A. Smith, Fraser, Snyder and Bauer

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Current statutes designate the association comprised of all elected or appointed judges of courts of limited jurisdiction as the "Washington State Magistrates' Association." This conflicts with the statutory definition of magistrate which includes appellate and superior court judges along with district and municipal court judges.

Statutes also provide the annual meeting for the association be held during August or September. However, the association's annual meeting has traditionally been held in the spring.

It is recommended references to the magistrates' association be changed to refer to the "district and municipal court judges' association" and the governing board be allowed to schedule annual meetings.

Summary: The "Washington State Magistrates' Association" is changed to the "Washington State District and Municipal Court Judges' Association."

The annual meeting of the association may be scheduled by the governing board.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 9, 1994

ESSB 6068

PARTIAL VETO

C 253 L 94

Revising procedures for appeals involving boards within the environmental hearings office.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Deccio, Spanel and Oke)

Senate Committee on Ecology & Parks
House Committee on Environmental Affairs

Background: Pollution Control Hearings Board. The Pollution Control Hearings Board is a three-member board that determines appeals of permit decisions, civil penalties, and other decisions by the Department of Ecology, Office of Marine Safety, local air pollution authorities and local health departments. Board members are appointed by the Governor to six year terms; at least one must be admitted to practice law; and no more than two may be of the same political party. Board decisions must be signed by two or more members.

A person bringing an appeal may elect an informal hearing procedure to determine the appeal, unless the respondent agency may override this election by a notice to the board that the formal hearing process be used. When a board determination is made using the informal procedure, a subsequent appeal before superior court is determined "de novo," meaning a new record is developed in the case and the court makes its own findings as to the facts.

Shorelines Hearings Board. The Shorelines Hearings Board determines appeals under the Shoreline Management Act, relating to local government decisions on shorelines permits, Department of Ecology shorelines rules, and Department of Ecology decisions to approve or deny local government shorelines programs. The board is comprised of six members: the three members of the Pollution Control Hearings Board, the Public Lands Commissioner, and a cities and a counties representative appointed by their respective associations. Shorelines Board decisions must be agreed to by at least four members. Judicial review of board decisions may be obtained in superior court under the state's Administrative Procedure Act.

Forest Practices Appeals Board. The Forest Practices Appeals Board is comprised of three members appointed by the Governor to six-year terms. At least one must be admitted to practice law, and no more than two may be of the same political party. The board determines appeals of decisions by the Department of Natural Resources on forest practices applications. An informal hearing of an appeal may be conducted if both parties consent to such procedure.

Environment Hearings Office. The Environmental Hearing Office consists of the above-named boards and the Hydraulics Appeals Board. During the 1970's, the average number of appeals filed with the office annually was 222. It has averaged 379 in the 1990's, and the office expects a total over 500 for 1993. It is suggested that measures to expedite smaller and routine cases, and other efficiency measures, will reduce the current delays in decisions of cases.

Summary: Shorelines Hearings Board. The Shorelines Board may decide the following types of appeals by a three-member panel of the board: single family residences and appurtenances, including docks or piers. At least one and not more than two members of the panel shall be members of the Pollution Control Hearings Board. Alternative processes to expedite appeals are to be developed by rule by the board, including mediation, submission of testimony by affidavit, and other forms.

The Shorelines Board shall have sole jurisdiction over an appeal under the State Environmental Policy Act relating to a matter that is also the subject of an appeal to the Shorelines Board. The two appeals shall be considered together.

Pollution Control Hearings Board. One member of the Pollution Control Hearings Board may decide appeals involving penalties of $5,000 or less. The board shall develop alternatives to expedite small appeals. The authority to hear appeals through informal hearings is deleted.

Forest Practices Appeals Board. The authority of the Forest Practices Appeals Board to hear appeals through informal hearings is deleted.

The Environmental Hearings office shall study the consolidation of environmental hearings boards into a single board with jurisdiction over environmental and land use decisions. The Administrator for the Courts shall study expediting appeals from administrative hearings.

Votes on Final Passage:

Senate	42	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	97	0	
Senate	45	0	

Effective: June 9, 1994

Partial Veto Summary: The provisions directing the Environmental Hearings Office to review and make recommendations on consolidating several environmental adjudicatory boards into a single board are vetoed.

VETO MESSAGE ON SB 6068-S

April 1, 1994

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 11, Engrossed Substitute Senate Bill No. 6068 entitled:

"AN ACT Relating to appeals involving boards within the Environmental Hearings Office;"

This is a thoughtful piece of legislation helping to reduce the time it takes for the Environmental Hearings Office and its constituent boards to resolve environmental disputes consistent with maintaining the quality of the state's environment. It is a part of larger efforts at regulatory reform designed to maintain the state's environmental quality and high standards while simplifying the regulatory and dispute resolution process.

Section 11 directs the Environmental Hearings Office to review and make recommendations as to whether the Pollution Control Hearings Board, the Growth Planning Hearings Boards, the Shorelines Hearings Boards, the Hydraulic Appeals Board, and the Forest Practices Appeals Board should be consolidated into a single board with jurisdiction over land use and environmental decisions.

While I am always interested in efforts to increase governmental efficiency, I do not agree with the provision as drafted. It is not

clear why a study to consolidate state environmental boards should be conducted by the office managing some of the functions to be consolidated. Any such review should be undertaken independently if it is to achieve the desired results. It is also not clear to me that consolidation of these boards, of itself, would reduce any backlogs or delays which are a function of workload and resources.

The Regulatory Reform Task Force is currently reviewing the relationship between the State Environmental Policy Act, the Growth Management Act, the Shoreline Management Act, and other statutes. The goal of its efforts is to provide recommendations for ways to integrate land use and environmental review statutes so that they will continue to protect the state's environment and quality of life while simplifying and unifying regulations. I believe that it is better to allow this task force to complete its review and to make recommendations before approving an additional study of this topic.

For these reasons, I have vetoed section 11 of Engrossed Substitute Senate Bill No. 6068.

With the exception of section 11, Engrossed Substitute Senate Bill No. 6068 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 6069

C 277 L 94

Authorizing additional nonvoter-approved municipal indebtedness.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley, Prentice and Pelz)

Senate Committee on Government Operations
House Committee on Local Government

Background: Cities and towns may not incur indebtedness exceeding 0.75 percent of the value of the taxable property in such city or town without approval of 60 percent of the voters voting at an election held to approve such indebtedness. This limit also applies to counties and hospital districts. Different limits are placed on other taxing districts.

It is believed cities and towns should be permitted to incur a higher level of indebtedness without having to seek the approval of 60 percent of the voters.

Summary: The threshold at which 60 percent voter approval is required for counties, cities or towns to incur indebtedness is increased from 0.75 percent to 1.5 percent of the value of the taxable property of such county, city or town.

Votes on Final Passage:

Senate	30	16
House	61	36

Effective: June 9, 1994

SSB 6070

C 193 L 94

Managing certain public records.

By Senate Committee on Government Operations (originally sponsored by Senators Loveland, Winsley and M. Rasmussen; by request of Secretary of State)

Senate Committee on Government Operations
House Committee on State Government
House Committee on Appropriations

Background: In order to ensure the proper management and safeguarding of public records, the Division of Archives and Records Management is established in the Office of the Secretary of State. Funding for the Archives and Records Management Division may only come from fees charged to state agencies. In addition to serving state agencies, the Archives and Records Management Division must provide a program on behalf of local government archives. Because local governments make no contribution to the funding of the archival services they receive, it falls to state agencies to subsidize the Archives and Records Management Division's work for local governments. The demand for local government archives and records management services has grown significantly over the past ten years. The resources available to provide those services have not grown in proportion to the demand. As a result, the Archives and Records Management Division has fallen behind in a number of its basic local government archives and records management functions, including the development and maintenance of general records retention schedules, records storage media guidelines and the processing of local government archives for public research use. Superior court filing fees currently range from $25 to $110. The current tax warrant filing fee is $5. A $20 surcharge would make costs for tax warrants comparable to other types of filings.

Summary: A $20 surcharge is assessed on superior court filings of warrants for unpaid taxes. These warrants are filed by the Department of Revenue for unpaid taxes or liabilities. The revenue so generated is transmitted to the State Treasurer who shall deposit it in the archives and records management account. An alternative procedure for the collection and transmittal of the surcharge revenue is established cooperatively between the filing agencies and clerks of superior court. There should not be an undue impact on the state agencies or on the superior court clerks occasioned by their compliance with the act. The tax warrant surcharge revenue is required to be spent by the Secretary of State on public archives and records management services to local government agencies by the Division of Archives and Records Management. A committee is established by the Secretary of State to advise the state archivist on the local government archives and records management

program. The purposes to which the tax warrant surcharge revenue are allocated are specifically enumerated.

Votes on Final Passage:

Senate	30	13	
House	94	1	(House amended)
Senate	32	13	(Senate concurred)

Effective: July 1, 1994

ESSB 6071

C 278 L 94

Authorizing an additional six-year industrial development levy.

By Senate Committee on Ways & Means (originally sponsored by Senators Snyder and Hargrove)

Senate Committee on Ways & Means
House Committee on Local Government
House Committee on Revenue

Background: All real and personal property in this state is subject to the property tax every year based on its value unless a specific exemption is provided by law.

The Constitution limits the amount of property taxes that may be imposed on an individual parcel of property without voter approval to 1 percent of its true and fair value, except levies by port districts and public utility districts.

Port districts are authorized to levy up to $0.45 per $1,000 of assessed value for general port purposes. Port districts are also authorized to levy up to $0.45 per $1,000 of assessed value for dredging, canal construction, and land leveling and filling purposes if approved by a majority vote of the voters voting on the proposition. In addition, port districts that have adopted a comprehensive scheme of harbor improvements and industrial developments are authorized to levy, for 12 years only, up to $0.45 per $1,000 of assessed value for these industrial development purposes. To impose this levy for more than six years, the port district must provide notice to voters in the district of such an intent in the first year in which the second six-year levy is to be made. If a petition is received by the county auditor within 90 days with signatures at least equal to 8 percent of the votes cast in the district in the last gubernatorial election, the proposition must be referred to the people at a special election and the levy can only be made if approved by a majority of the votes.

Summary: A third six-year industrial development levy is authorized for a port district bordering on the Pacific Ocean if a majority of the voters approve.

Votes on Final Passage:

Senate	26	20	
House	94	1	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	33	10	(Senate concurred)

Effective: June 9, 1994

SSB 6073

C 3 L 94

Correcting unemployment compensation statutes for base year compensation and defining employment.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice, Newhouse and Vognild; by request of Employment Security Department)

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

Background: Unemployment Insurance Claimant Base Year: Unemployment insurance programs in all states determine claimant eligibility through the use of a "base year." In Washington, "conventional base year" is the first four of the last five completed calendar quarters. A claimant must have worked 680 hours in his or her base year in order to qualify for benefits.

In 1987 the Legislature authorized an "alternate base year." This process allows claimants that do not have the necessary 680 hours of employment in the conventional base year to move their base year forward to the most recent four completed quarters. Under the alternate base year process, the Employment Security Department was provided administrative relief by not requiring that it contact employers or take other special administrative action to speed the data collection process. However, since employers may not have reported more recent work to the department in the last quarter, there was often a delay in establishing a claimant's alternate base year claims.

The U.S. Department of Labor contends that this provision granting administrative relief to the department violates the federally mandated "payment when due" requirement and raises a conformity issue. The states are required to be in conformity with the federal standards in order to receive administrative funding and maintain valuable employer tax credits.

Massage Therapists/Public and Private Nonprofit Institutions: The fact that an unemployment insurance (UI) claimant was employed by a "covered employer" is a basic test for determining UI eligibility. Like other forms of insurance, benefits are available only for individuals covered by the policy and although states have some discretion about who is covered, the minimum standards are stipulated in federal law.

In 1993 the Legislature provided a limited exemption from UI coverage for licensed massage practitioners who

merely rent office space and are not considered employees. In reviewing this provision, the U.S. Department of Labor informed the state Employment Security Department that under federal law, licensed massage practitioners who provided services for a public or private nonprofit institution must be covered under the unemployment insurance program.

Federal Extended Benefits: The Department of Employment Security received notice that the federal extended benefits program was scheduled to terminate on February 26, 1994. Thousands of workers had one week's notice that their benefits were ending even though many had several weeks left in their eligibility period.

Summary: The Department of Employment Security is directed to promptly contact employers requesting wage information on a claimant's last completed calendar quarter.

The existing statutory exemption from UI coverage for licensed massage practitioners is modified. Licensed massage practitioners who provide services for public and private nonprofit employers are required to be covered under the state's unemployment insurance program.

The conformity issues raised by the U.S. Department of Labor are addressed.

A limited unemployment insurance additional benefit program is established. This has the effect of continuing the existing federal extended benefits program that was scheduled to terminate February 26, 1994. Approximately 27,000 unemployed workers now participating in the federal extended benefit program continue to receive up to their maximum 13 weeks of UI benefits. No new participants are authorized under the additional benefit program.

Votes on Final Passage:

Senate	47	1	
House	94	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: February 26, 1994
April 1, 1994 (Section 2)
April 3, 1994 (Section 1)

SB 6074

C 279 L 94

Changing the Washington award for excellence.

By Senator Gaspard

Senate Committee on Education
Senate Committee on Ways & Means
House Committee on Education

Background: In 1986, the Washington Award for Excellence in Education Program was created to recognize teachers and principals, a superintendent, and a school board for their leadership, contributions, and commitment to education. In subsequent years, administrators other than principals, educational staff associates, and classified staff have been made eligible for recognition.

Under the program, in a public ceremony, each recipient receives a certificate from the Governor and Superintendent of Public Instruction. In addition, recipients may select a fiscal option to go with the certificate:

- The school district superintendent may choose between a recognition stipend up to $1,000 or an educational grant not to exceed $1,000.
- The school district board of directors may select an educational grant not to exceed $2,500.
- Teachers, principals or administrators, and classified staff may choose between 1) an academic grant equal to actual costs of tuition and fees for up to 45-quarter/30-semester credits based on U.W. resident graduate, part-time cost per credit hour, and a $1,000 stipend if funded; 2) a recognition stipend up to $1,000, or 3) an educational grant up to $1,000.

The number of fiscal options available to recipients has made it difficult to predict program costs from one year to the next. Also, changes to the academic grant (formerly a waiver of tuition and fees) have resulted in program administrative difficulties. Simplifying the fiscal options will make budgeting for the program more predictable and ease program administration.

Summary: Beginning with 1994 recipients, the current three fiscal options available to teachers, principals or administrators, classified staff, and the superintendent are reduced to a single recognition award of at least $2,500 for teachers, principals or administrators, classified staff, and the superintendent of a second class school district (fewer than 2,000 students). If the superintendent is from a first class district (2,000 or more students), the award is at least $1,000. Each recipient determines how he or she will use the recognition award.

The $2,500 educational grant for the recognized school board is not changed.

Recipients of a Washington Award for Excellence in Education selected prior to January 1, 1994, are not affected. However, pre-1994 recipients who have selected the academic grant option must complete any courses paid via the grant by June 30, 1998. Also, pre-1994 recipients who have selected the academic grant may, subject to funds being available, convert the remaining value of the grant into a recognition award.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Conference Committee			
House	96	0	
Senate	46	0	

Effective: April 1, 1994 (Section 4)
June 9, 1994

SB 6080

C 280 L 94

Prohibiting wrongful property damage to agricultural and forest lands.

By Senators Owen, Oke, Hargrove, Amondson, Haugen, Snyder, Morton, M. Rasmussen and Roach

Senate Committee on Natural Resources
House Committee on Judiciary

Background: The incidence of property trespass and vandalism is increasing on forest and agricultural lands. In 1993 legislation was passed to establish liability for damages to Department of Natural Resources lands, to be compensated at treble damages. Currently, no similar provisions for private lands exist.

Summary: Every person who wrongfully causes waste or injury to the land of another, or injures personal property or improvements to the land is liable to the injured party for treble the amount of damages caused by the use. Damages may include damages for the market value of the property removed or injured, and damages for injury to the land, including the costs of restoration. The person is also liable for reimbursing the injured party for the party's reasonable investigative and litigation-related costs.

Provisions for liability for damages to public lands are amended to include damages to public property and improvements as well as public lands.

Votes on Final Passage:

Senate	44	2	
House	91	4	(House amended)
Senate	45	1	(Senate concurred)

Effective: June 9, 1994

SSB 6081

C 281 L 94

Regulating the use, sale, and distribution of on-site sewage additives.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Haugen, Deccio, Bauer and Winsley)

Senate Committee on Ecology & Parks
House Committee on Environmental Affairs
House Committee on Appropriations

Background: During the 1993 session, the Legislature enacted a law which prohibits the use, sale, or distribution of septic tank additives after July 1, 1994 (L 1993 C 321). Under the provisions of the law, the Department of Health (DOH) is authorized to approve septic tank additives if it can be demonstrated to the satisfaction of the department that the additive has a positive benefit, and no adverse effect, on the operation of an on-site septic system. DOH is authorized to charge a fee sufficient to cover the costs of evaluating and approving an additive product.

As required by the law, DOH provided notification to approximately 100 major distributors and wholesalers of the statewide prohibition on additives prior to October 1, 1993. Distributors and wholesalers were required to provide notification to their retail customers within 30 days of receiving notice from DOH.

DOH is forming an advisory committee to assist the agency in developing product review and approval criteria and standards. Industry representatives, product users, on-site sewage professionals, regulatory agencies and members of the academic community have been invited to apply to sit on the advisory committee. The advisory committee was scheduled to begin meeting in February 1994.

There are generally two types of septic tank additives: (1) chemical-based products which may contain chlorinated organic solvents, strong acids or bases; and (2) biological-based products which may contain enzymes, bacteria, or yeast.

Summary: Chemical-based additives are prohibited as of July 1, 1994. A process is established to evaluate all other septic tank additive products. No septic tank additive product may be sold after July 1, 1996 without specific approval from the Department of Health.

Manufacturers must register their product with the Department of Health and may request that the product be reviewed. The department must adopt rules establishing the criteria, review procedures, and fees necessary to evaluate additives. The review criteria are to be designed to determine if the product has an adverse effect on public health or water quality. The department must approve or deny an additive within 45 days of receiving a complete evaluation of the additive.

Manufacturers must re-register the product each time the product formulation changes. The department, at its discretion, may require a new evaluation for re-registered products.

Provisions are added to protect the confidentiality of proprietary information given to the department during the review and approval process. Consumer protection provisions dealing with product labeling and advertisement claims are included.

The department is prohibited from funding rule-making, product evaluations, or other activities required by the measure with funds appropriated to implement the Puget Sound water quality plan.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	45	2	(Senate concurred)

Effective: April 1, 1994

SSB 6082

C 282 L 94

Changing provisions relating to the center for international trade in forest products.

By Senate Committee on Trade, Technology & Economic Development (originally sponsored by Senators Snyder, Bluechel, Amondson, Skratek, Hargrove, Sheldon, Owen, M. Rasmussen, Oke and Erwin)

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing

Background: The Center for International Trade in Forest Products (CINTRAFOR) was established in statute in 1985 with responsibilities for (1) conducting research for expansion of forest-based international trade in manufactured forest products; (2) developing industrial technology to meet international customers' needs; (3) coordinating and disseminating market and technical information; (4) providing graduate education; (5) cooperating with other state and federal agencies; and (6) seeking financial support from private industry and from federal and other government sources.

In response to a 1991 Legislative Budget Committee sunset review, the 1992 Legislature made a number of changes to CINTRAFOR's enabling statute, including placing more emphasis on the provision of research, analysis, and market information of value to secondary manufacturers. The 1992 Legislature also set a new sunset date of June 30, 1994.

The Legislative Budget Committee conducted another sunset review during 1993 and recommended continuation of CINTRAFOR. However, the review surfaced concerns that CINTRAFOR was not meeting the legislative intent to focus more closely on secondary manufacturing issues.

Summary: CINTRAFOR is directed to provide technical assistance in the commercialization of manufactured products and the development of research and analysis on the quality and availability of wood resources. The center is to give special emphasis to secondary manufacturing in its work and assist in the development of a wood products manufacturing curriculum.

The center's executive policy board is to have at least 50 percent of its business members representing small and medium-sized businesses. The board is also to include a representative of the community and technical colleges, a representative of a wood products manufacturing network or trade association of small and medium sized wood manufacturers, and representatives of state and federal agencies.

The center is to report annually on its work and is subject to sunset in 2000.

The State Board for Community and Technical Colleges is to develop a competency based technical degree program in wood product manufacturing and wood technology and make it available in timber impact areas.

Votes on Final Passage:

Senate	46	1	
House	85	11	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 1, 1994

SSB 6083

C 33 L 94

Changing the mortgage brokers practices act.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Moore, Amondson, Prentice, Prince and Erwin; by request of Attorney General)

Senate Committee on Labor & Commerce
House Committee on Financial Institutions & Insurance

Background: 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 are required to possess a license issued by the Department of Financial Institutions (DFI). In order to become licensed, a mortgage broker must have two years of experience in the residential mortgage loan industry, must complete an application form, pay a licensure fee, and file and maintain a surety bond or approved alternative in the amount of $40,000 with DFI.

Certain entities and persons are exempt from the mortgage brokers licensing requirements, including: 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 the U.S. Secretary of Housing and Urban Development (HUD) ; and real estate brokers providing information in connection with a computer loan origination (CLO) system.

The 1993 act established a number of unlawful practices that mortgage brokers, employees of mortgage brokers and mortgage bankers must not violate. A mortgage broker is liable for violations of the act by his or her loan originators.

All moneys collected through license fees and fines are deposited into the mortgage brokers licensing account. This dedicated account is subject to appropriation.

A five-member Mortgage Brokerage Commission was established to advise 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.

Summary: A permanent licensing program for mortgage brokers is established within the Department of Financial Institutions (DFI).

Language is added to clarify which computer loan origination services may be provided by a real estate broker without requiring a mortgage broker license and which activities would require a broker to obtain a mortgage broker license.

Some persons who are exempt from the mortgage brokers licensing requirements, including most mortgage bankers who are not otherwise regulated, are required to comply with the prohibited practices sections of the act. In addition, they are subject to the Director of Financial Institution's authority to issue cease and desist orders for violations of these prohibited practices and to obtain and review documents relevant to alleged violations of these practices.

The list of prohibited practices is expanded to include: failing to pay third party providers within an established time period except under certain circumstances; attempting to charge or collect a prohibited fee; acting as a mortgage broker and real estate broker or agent on the same transaction, except when the broker provides a written disclosure and keeps the mortgage broker and real estate broker businesses separate.

The exemption for entities approved by the U.S. Secretary of HUD is deleted, effective June 1, 1994.

Independent contractors may work for a licensed mortgage broker without obtaining a separate license and bond but only if the licensed broker and his or her bonding agency are willing to assume responsibility for the independent contractor's violations.

Applicants seeking licensure are required to pay an application fee instead of a licensing fee. Application fees must be deposited in the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case the fees must be deposited in this account.

The bonding requirement is changed from a flat amount of $40,000 to an amount ranging from $20,000 to $60,000. The director may establish a uniform bond amount for all licensees or a range of bond amounts which varies according to the number of loan originators or independent contractors employed by the licensee.

The conditions for denial or approval of an application for a mortgage brokers license are modified. Applicants who do not have two years of experience in the residential mortgage loan industry may obtain a license by completing specific educational requirements and passing a written examination established by the director. All applicants are required to pass a written exam.

Licensees and every branch manager of a licensee must complete annual continuing education requirements, established by the director.

The director may impose penalties for violations of the cease and desist orders or other orders of the director or remove or bar from the industry any principal, employee or loan originator of a licensee.

Licensees must maintain an office within 30 miles of the state. Brokers who do not have an office in Washington must maintain a registered agent for service of any lawful process.

The director may examine the books and records of a licensee within the first two years after issuance of a permanent license regardless of whether a complaint has been received and thereafter upon complaint.

Licensees and exempt individuals must provide additional disclosures and follow specific procedures for providing disclosures related to lock-in agreements. In addition, they must keep additional records and books related to: advertisements which mention rates or fees and borrowers files.

DFI is required to conduct an annual review of the number of complaints arising from residential mortgage lending in the state and provide a report, with recommendations, to the appropriate legislative committees by December 1, 1996.

Votes on Final Passage:

Senate	45	0
House	97	0

Effective: March 21, 1994
June 1, 1994 (Section 5)

ESSB 6084
PARTIAL VETO
C 303 L 94

Making transportation appropriations.

By Senate Committee on Transportation (originally sponsored by Senator Vognild; by request of Office of Financial Management)

Senate Committee on Transportation
House Committee on Transportation

Background: Appropriation authority is required for the expenditure of state funds. State government operates on the basis of a fiscal biennium that begins on July 1 of each odd-numbered year. A biennial budget was enacted during the 1993 legislative session.

Summary: $122 million is added to the Governor's recommended transportation supplemental budget. Enhanced funding is provided for the regular category C program, including accelerated work on high occupancy vehicle lanes on non-interstate highways.

$27 million is provided for preliminary engineering and right-of-way on a group of category C projects. Another group of category C projects will go to construction between now and the end of the biennium. $93.9 million from the general fund-state is appropriated to the regular category C program.

The Washington State Patrol operating and capital budgets are reduced by nearly $5 million.

(See budget section for additional information.)

Votes on Final Passage:

Senate	46	2	
House	88	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: April 2, 1994

Partial Veto Summary: Most of the $5 million reductions made in the Washington State Patrol (WSP) were vetoed. The transfer of the Traffic Safety Commission (TSC) to the Washington State Patrol was also vetoed. The appropriation authority contained in the WSP supplemental budget for the activities of the TSC will be transferred back to the TSC through OFM's allotment process.

The $5 million appropriation to the Community Economic Revitalization Board (CERB) dedicated for transportation infrastructure related to a new horse race track if approved by the Horse Racing Commission is vetoed.

There were several other vetoes made by the Governor.

VETO MESSAGE ON SB 6084-S

April 2, 1994

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, page 2, lines 6 through 9; 2(2); 5, page 4, lines 8 through 10; 5(4); 6, page 4, line 37, and page 5, lines 1 and 2; 7, page 5, lines 18 and 19; 7(1); 7(2); 7(3); 25; 29(2); 34; and 45 of Engrossed Substitute Senate Bill No. 6084 entitled:

"AN ACT Relating to transportation appropriations;"

My reasons for vetoing these sections are as follows:

Sections 2, page 2, lines 6 through 9; 2(2); 7, page 5, lines 18 and 19; and 7(1), Abolishment of the Traffic Safety Commission and Transfer of Responsibility to the State Patrol

These sections of the supplemental transportation budget would abolish the Traffic Safety Commission as of July 1, 1994 and place the Commission's responsibilities in the State Patrol. I agree with the legislature that a decision should be made whether the effectiveness of state traffic safety activities would be improved by placing these functions in some other agency. I also believe this discussion should be complete and a decision made in the next session. I am vetoing these sections now to provide the opportunity for further consideration of this matter. Also, veto of section 7(1) is necessary to prevent the loss of over $2.5 million in federal funds because Senate Bill No. 6523, referred to in the proviso, was not enacted.

It is my intention that the State Patrol make these Highway Safety Fund appropriations available to the Traffic Safety Commission to perform the Commission's authorized responsibilities in the fiscal year beginning July 1, 1994. This veto also prevents the transfer of a $300,000 Transportation Fund appropriation from the Traffic Safety Commission to the State Patrol but reverses the planned $12,000 reduction from that fund. As the $12,000 was reduced, because it was identified as unnecessary, I am directing the Traffic Safety Commission to place this amount in reserve status.

I am also directing the Traffic Safety Commission and OFM to work with the legislature to identify the alternatives for placement of traffic safety activities and to address any substantive concerns regarding Traffic Safety Commission service delivery approaches and staffing levels. My recommendations on these matters will be presented to the next session of the legislature.

Section 5, page 4, lines 8 through 10, Reductions in Field Operations Bureau and the Elimination of the Safety Education Officer Program

This veto restores approximately $2 million in State Patrol Highway Account funding that contains several budget actions including the elimination of the patrol's Safety Education Officer program (SEO), commonly known as Trooper Bob. The SEO program staff provides training and education to the state's school age population regarding pedestrian, bicycle and highway safety, drug and alcohol prevention, and youth violence prevention. Last year Trooper Bobs contacted approximately 380,000 students. They are an important element in the state's effort to prevent the problems that plague our schools and our communities.

I concur with the other priorities assumed in this appropriation including savings identified by reducing the number of vehicle replacements, selected staffing reductions, and increasing expenditures for alcohol breath test equipment. These actions will be accomplished through the allotment process.

Section 5(4), Limitations on Vehicle Assignment

This section states that "Only commissioned officers and commercial vehicle enforcement officers involved directly and primarily in traffic enforcement activities will be assigned vehicles by the Washington State Patrol." This language limits the patrol's ability to provide vehicles required to effectively respond to emergency calls. These assigned vehicles contain specialized equipment such as sirens, radio equipment, emergency lights, and first aid equipment that are essential to reaching emergency scenes in an expeditious manner and to being fully equipped to provide assistance upon arrival.

While these problems illustrate the defects of the proviso as it was enacted, I share the legislature's concern over the assignment of state vehicles. I am directing the Washington State Patrol to complete a thorough review of its policy regarding vehicle assignment, and to present a plan to me and to the legislature by June 30, 1994 detailing how the number of individually assigned vehicles will be significantly decreased from the current level. I fully expect that only those employees who have a clear need connected to the safety of the public will be assigned a state vehicle.

Section 6, page 4, line 37, and page 5, line 1 through 2, Crime Lab Reduction and Fund Shift of Motor Vehicle Funds with State Patrol Highway Account Funds

This section reduces State Patrol Highway Account funding for the Investigative Services Bureau by $749,000. This amount is a combination of a $900,000 reduction in crime lab funding, a net increase of $121,000 in ACCESS funding, and a $30,000 increase in staffing for microanalysis work performed by the crime labs. The cut in the crime labs of $900,000 represents a 23 percent reduction and would result in service cutbacks that would hinder law enforcement and the ability of prosecuting attorneys to investigate and prosecute criminal cases. The severity of this reduction was recognized by the Legislature when it provided a partial restoration through the addition of $200,000 from the Transportation Fund in Section 402 of the operating budget. Even with the partial restoration, the crime lab would be reduced by 18 percent if not for this veto. This would result in approximately 3,750 fewer cases being analyzed with a corresponding impact on the effectiveness of prosecutions.

This veto has the effect of preserving essential crime lab activities.

Section 7(2), State Patrol Management Study

This section allows the Washington State Patrol to spend up to $100,000 for a study of current management programs and staffing of management positions. I agree that a study of management staffing levels is appropriate, but the expenditure of $100,000 for this effort is not necessary. Therefore, I am directing the Washington State Patrol to design a study as described in this section in cooperation with the Office of Financial Management. The results of this study will be presented to the legislature when the study is complete and incorporated into my budget recommendations for the next biennium.

Section 7(3), Forbidding Cadet Classes and Maintaining Field Force Levels through Management Reductions

This section requires the Washington State Patrol to maintain a field force level of 700 troopers and sergeants through reductions in management, and prohibits a cadet class for the remainder of this biennium. While I agree that it is important to maintain the field force level to protect the citizens of the state, this proviso does not accomplish the goal for two reasons. First, there will simply not be enough administrative staff that could reasonably be transferred to the field force sufficient to offset the projected level of field force retirements and attrition. Second, the prohibition of a cadet class eliminates the other avenue of acquiring replacement troopers.

The legislature acknowledges the first problem in Section 7(2) of this bill when it authorizes funds to "conduct a study of current management programs and levels of staffing for management positions within the Washington State Patrol". If is was clear that sufficient administrative staff transfers to the field were available without damaging the agency's operations, a study would be unnecessary.

I believe a more effective approach to maintaining an adequate field force level is to conduct an academy class for existing cadets and, wherever appropriate, to undertake the transfer of administrative staff to the field. I am directing the patrol to take both of these actions as soon as possible.

Section 25, Project Funding Priorities

This section directs the Transportation Commission to reduce or eliminate projects in a specified order should revenues fall below the level assumed in the supplemental transportation budget. This veto removes the language which specified the order of reduction—restoring the responsibility to make these choices to the Transportation Commission. The commission needs flexibility in exercising its responsibility to make project priority selections and to balance highway construction program expenditures with available resources.

Section 29(2), Horse Racing Track Infrastructure

This section specifies that $5 million in the Community Economic Revitalization Board (CERB) fund is dedicated solely for transportation infrastructure related to a new race track once it is approved by the Horse Racing Commission. This proviso sidesteps the CERB policy for selection of projects through competitive application. With this veto, the $5 million appropriation remains for use on CERB approved projects. If and when a race track location is approved by the Horse Racing Commission, the horse racing track project can compete for transportation infrastructure funding along with other projects through the regular CERB process.

Section 34, Charges From Other Agencies

The Motor Vehicle Fund (MVF) appropriation for DOT revolving fund charges is reduced and the section is restructured as separate line items for each of the eight different revolving fund charges. This reduction in the total amount provided means the agency cannot pay the charges for basic custodial and utility services. This veto restores the flexibility of the single line item approach and prevents the reduction in the total amount available. Even though the original appropriation does not provide the full amount needed for all anticipated revolving fund charges, the flexibility provided by the single line item format allows DOT to meet minimum obligations for the Department of General Administration facilities and services costs and for the Office of Minority and Women Business Enterprises expenses.

Section 45, Treasury Loan

This section provides for a treasury loan to the Motor Vehicle Fund should a temporary cash deficiency be projected. This section is not necessary. Treasury loans automatically occur for short term cash deficits for all funds and accounts.

With the exceptions of sections 2, page 2, lines 6 through 9; 2(2); 5, page 4, lines 8 through 10; 5(4); 6, page 4, line 37, and page 5, lines 1 and 2; 7, page 5, lines 18 and 19; 7(1); 7(2); 7(3); 25; 29(2); 34; and 45, Engrossed Substitute Senate Bill No. 6084 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 6089

C 194 L 94

Creating the collegiate license plate fund program.

By Senate Committee on Transportation (originally sponsored by Senators West, Bauer, A. Smith, Vognild, Talmadge, Nelson, Prince, Oke, Sutherland, Winsley, Sheldon, M. Rasmussen, Deccio, Erwin, Roach, Ludwig, Drew, Loveland, Sellar, Cantu, Morton and Skratek; by request of Washington State University)

Senate Committee on Transportation
House Committee on Transportation

Background: Currently, the Department of Licensing (DOL) has the authority to create, design, and issue special license plates, in lieu of regular or personalized license plates. In addition to ordinary fees required to register and license vehicles, the department may charge a fee of not more than $35 to offset the costs of production of the special plates and for the administration of the special plate program; these fees are deposited in the motor vehicle fund.

Institutions of higher education, including state universities, regional universities, The Evergreen State College, community colleges, and technical colleges may petition the department to create, design, and issue a vehicle license plate emblem series that identifies that institution. The emblem may display a mascot, slogan, message or symbol. The department has the sole discretion for approving or disapproving institutions for participation in the vehicle license plate emblem program. Fees collected by the department for the emblems are to be deposited in the special vehicle license plate emblem account. Institutions approved for participation in the emblem program may collect additional fees from persons receiving an emblem to be used for purposes of the approved institution.

A "cabulance" is a taxicab, or other for-hire passenger vehicle, that is specially equipped to accommodate a person confined to a wheelchair, or otherwise physically restricted. Because of the nature of the service, cabulances should be considered for inclusion in the list of agencies eligible for the special parking privilege. There are currently 25 cabulances operating in the state of Washington.

Summary: RCW 46.16.323, the vehicle license plate emblem program for institutions of higher education, is repealed.

Beginning January 1, 1995, a state university, regional university, or state college may apply to the Department of Licensing to issue a collegiate license plate series. A collegiate license plate displays a depiction of the mascot or symbol of the college or university, plus the name of the college or university.

In addition to all fees and taxes required to be paid upon registration and renewal of a motor vehicle, the owner of a motor vehicle issued a collegiate license plate shall pay an annual fee of $30. The department shall deduct an amount not to exceed $2 for administration and collection expenses. The remaining proceeds minus the cost of plate production shall be remitted to the State Treasurer for deposit in the collegiate license plate accounts.

A collegiate license plate account is established in the State Treasury for each college or university that develops and administers a collegiate license plate program. The money credited to each college and university shall be used for student scholarships.

By January 1, 1996, DOL shall report to the Legislative Transportation Committee regarding the number of colleges or universities issued a collegiate license plate series, and the total number of collegiate plates issued for each participating college or university.

Cabulances join the list of entities providing transportation services for persons with disabilities that are eligible for the special parking program administered by DOL.

Votes on Final Passage:

Senate	45	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	97	0	
Senate	44	0	

Effective: June 9, 1994

SSB 6093

C 195 L 94

Revising the definition of "collection agency."

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson)

Senate Committee on Law & Justice
House Committee on Commerce & Labor

Background: A collection agency means and includes any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person.

In order to act or advertise as a collection agency in Washington State, a person must first obtain a license from the director of the Department of Licensing (DOL). The license requirements include establishing a regular active business office in this state. All business records must be kept at the office, which is required to be open to the public during reasonably stated business hours. The licensee must also maintain a customer trust fund account in this state in which all moneys collected by the licensee are deposited.

These requirements preclude out-of-state collection agencies from communicating with a debtor in Washington State unless the agency complies with the licensing requirements of DOL.

A separate licensing procedure is suggested for out-of-state collection agencies that need to follow debtors into Washington State in order to collect or attempt to collect on claims for the agency's clients.

Summary: A separate license is created for out-of-state collection agencies whose activities in this state are limited to collecting debts by means of interstate communications, such as telephone, mail, or FAX, from another state for clients located in another state.

The license fees for all out-of-state licensees must not exceed 50 percent of the license fees for other collection agencies.

An out-of-state license is exempt from the license fees if the agency is housed or registered in another state and that state does not charge license fees to out-of-state licensees.

An out-of-state license is exempt from certain requirements applicable to collection agencies, including: (1) posting a bond, if the licensee maintains a bond or legal alternative in its home state; (2) maintaining a trust account in Washington; and (3) maintaining a business office in Washington.

An out-of-state licensee is deemed to have appointed the Director of Licensing as the licensee's agent for purposes of service of process.

All prohibited practices and enforcement provisions applying to collection agencies also apply to out-of-state collection agencies.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 9, 1994

SSB 6096

PARTIAL VETO

C 143 L 94

Making major changes to milk and milk products regulations.

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Anderson, Newhouse, Snyder, Morton, Bauer and Quigley)

Senate Committee on Agriculture
House Committee on Agriculture & Rural Development

Background: The Washington State Department of Agriculture regulates the production of milk and milk products in the state to protect consumers. Dairies and dairy products are regulated under Chapter 15.32 RCW and fluid milk is regulated under Chapter 15.36 RCW. These chapters are very similar in construction and each has a number of provisions which are outdated or which have been superseded by federal law.

The Public Health Service (PHS) /Food and Drug Administration (FDA) recommended pasteurized milk ordinance (PMO) is the basic standard used in the voluntary cooperative state-PHS program for certification of interstate milk shippers, a program participated in by all 50 states, the District of Columbia and United States trust territories. The National Conference on Interstate Milk Shipments (NCIMS), in accordance with the Memorandum of Understanding with the FDA, has recommended changes and modifications to the PMO. The PMO is incorporated by reference in federal specifications for procurement of milk and milk products; is used as the sanitary regulation for milk and milk products served on interstate carriers; and is recognized by the public health agencies, the milk industry, and many others as a national standard for milk sanitation.

The PMO is intended to accomplish two things: (1) provide a nationwide system of protection and public health standards transcending state lines; and (2) provide a baseline for industry that must be met to engage in interstate commerce.

Summary: Redundant definitions, confusing language requirements and unnecessary standards which contradict the pasteurized milk ordinance (PMO) are removed. Enforcement of the PMO or more strict standards is a requirement for interstate shipment of grade A milk and grade A milk products.

There will be a uniform milk processor's license, and licensees are exempt from dual licensing as food processing plants. A uniform procedure is established to protect the public health through license suspension. Uniform enforcement of requirements to protect the public health and a uniform appeal procedure are established.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: June 9, 1994

Partial Veto Summary: The veto corrected a technical error in the repealer section.

VETO MESSAGE ON SB 6096-S

March 28, 1994

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 513 (28) and 513 (50), Substitute Senate Bill No. 6096 entitled:

"AN ACT Relating to milk and milk products;"

Section 513 of Substitute Senate Bill No. 6096 repeals 103 separate sections of the RCW. The 103 individual sections of law repealed in section 513 are contained in a single section of the bill for clerical ease. Two of these repealers, sections 513 (28) and 513 (50), would repeal sections of the code which are amended elsewhere in Substitute Senate Bill No. 6096.

Section 207 of the bill amends RCW 15.32.590 and makes substantive changes to the requirements for sampling, testing, weighing, and grading done by licensed dairy technicians by expanding the requirement for these actions from "milk or cream" to "milk and milk products" and specifying that no unfair, fraudulent, or manipulated sample shall be taken or delivered for analysis. This same RCW section is repealed in section 513 (28).

Section 402 of the bill amends RCW 15.36.090 and makes substantive changes to labeling and marking requirements and specifically provides requirements concerning raw milk products and pasteurizing. This same RCW section is repealed in section 513 (50).

Veto of these discreet repealer sections cures the problem of internal inconsistency in Substitute Senate Bill No. 6096 and clarifies the substantive intent of this bill. For these reasons, I have vetoed sections 513 (28) and 513 (50) of Substitute Senate Bill No. 6096.

With the exception of sections 513 (28) and 513 (50), Substitute Senate Bill No. 6096 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 6098

C 34 L 94

Eliminating the expiration of the dairy inspection program.

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Newhouse, Snyder and Quigley; by request of Department of Agriculture)

Senate Committee on Agriculture
House Committee on Agriculture & Rural Development

Background: The Department of Agriculture administers the milk inspection program. The purpose of the program is to assure milk and milk products meet minimum state and federal standards. Milk must meet federal standards to

be shipped in interstate commerce. State inspections of dairy farms are subject to spot checks by federal inspectors. Regions of the state are divided into bulk tank units. If a bulk tank unit fails to meet the standards, dairy farms within the bulk tank unit are decertified. Some restrictions apply to the sale of milk from a decertified bulk tank unit.

In 1992, additional funding for the milk inspection program was provided through an assessment on fluid milk. The additional revenue was to supplement funding from the state general fund. The assessment is collected from the operator of the first milk plant receiving the milk for processing. The assessment of fifty-four one-hundredths of one cent per hundredweight is scheduled to expire June 30, 1994.

The legislation also created an advisory committee to provide recommendations regarding the structure and funding of the dairy inspection program. The report to the Legislature was due by December 1992.

Summary: The June 30, 1994 termination date of the assessment on fluid milk is extended to June 30, 1995.

The dairy inspection program advisory committee is continued but the December 1, 1992 due date for the report is deleted.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 9, 1994

SSB 6100

C 283 L 94

Modifying the Washington pesticide application act.

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Newhouse, Snyder, Prentice and Fraser; by request of Department of Agriculture)

Senate Committee on Agriculture
House Committee on Commerce & Labor

Background: The federal Insecticide, Fungicide and Rodenticide Act sets the framework for the registration and regulation of pesticides. The state administers the federal act through the Washington Pesticide Control Act and the Washington Pesticide Application Act.

Currently, all applicators who are licensed or who apply pesticides to over one acre of agricultural land must keep records to better keep track of times, locations and potential exposures to pesticides. Posting is done to inform the public that an area is treated with pesticides.

To maintain a continued level of competency, the continuing education program is administered for pesticide licensees.

Currently, the Governor appoints members to the Pesticide Advisory Board and one member must be from the environmental community.

Persons who violate pesticide laws or rules are subject to a civil fine of up to $7,500, and suspension or revocation of their license. Also, persons who violate the act or rules are guilty of a misdemeanor for the first offense and a gross misdemeanor for each subsequent offense.

Summary: Added to those that must keep records are persons who fail to obtain a pesticide applicators license as required, and persons who perform landscape applications at schools, day cares, apartment complexes, golf courses and parks.

In addition to the current areas that are required to be posted are apartment complexes, day cares, nursery schools, rest areas, cemeteries and similar areas. The requirement is extended to people whether or not they are licensed applicators.

Commercial applicators must provide prior notification to the department of individuals employed to apply pesticides. Violations by the employee may be treated as a violation by the commercial pesticide applicator. Commercial applicators must themselves be licensed in all classifications in which the business operates.

Specific requirements as to the number of hours of training and the frequency of recertification are set forth.

In addition to application of pesticides, the act of mixing and loading is subject to regulation by the department. Authority is provided to the department to establish a training program by employers of employees who mix and load pesticides.

In addition to regulating nozzle sizes, authority is provided for the department to establish minimum performance standards for pesticide spray booms and nozzles.

The director is provided the authority to appoint members of the Pesticide Advisory Board. The composition of the board is expanded to include an additional representative of the environmental community, an urban landscape applicator and a producer of aquacultural products.

Authority is conveyed to the director to impose a suspension of a license that coincides with the time of year during which the violation occurred.

Votes on Final Passage:

Senate	44	2	
House	78	19	(House amended)
Senate	41	3	(Senate concurred)

Effective: June 9, 1994

2SSB 6107

PARTIAL VETO

C 284 L 94

Allowing fees for services for the department of community, trade, and economic development.

By Senate Committee on Ways & Means (originally sponsored by Senators Skratek, Sheldon and M. Rasmussen)

Senate Committee on Trade, Technology & Economic Development
Senate Committee on Ways & Means
House Committee on Environmental Affairs
House Committee on Appropriations

Background: Without specific statutory authorization to keep fees collected for services and products provided by an agency, the agency must turn the funds over to the Treasurer's office for deposit in the general fund. By collecting fees for services or products and keeping the proceeds, an agency may expand the availability of such services or products.

Summary: The Department of Community, Trade, and Economic Development and the Clean Washington Center are authorized to charge reasonable fees for services and products provided and expend the fees for the purposes for which they were collected.

The Department of Community, Trade, and Economic Development is authorized to charge fees for conferences, workshops, and training programs. Fees may also be charged for services and products provided in the areas of financial assistance, housing, international trade, community assistance and economic development. The Office of Financial Management must approve a schedule of fees and the approved schedule of fees must be submitted to legislative committees.

The Pacific Northwest Export Assistance Project (PNEAP) may charge fees. The requirement that receipts from PNEAP be deposited in the general fund or the small business export finance assistance fund is removed.

All receipts from fees charged by the department under the authority of the act are to be deposited in an appropriated account.

Businesses paying litter and refuse collection taxes will not be asked to pay fees to the Clean Washington Center.

Collection of fees to cover the expenses of certifying manufactured home installers and mediating disputes arising from manufactured home warranties is authorized.

The statutory warranty period that must be provided for all new mobile home sales begins to run when the mobile home is delivered instead of when it is sold. Any dealer, manufacturer, or contractor who installs a mobile home warrants that it was installed in accordance with the state installation code.

Each sale of a new mobile home is made with an implied warranty that it conforms in all material aspects to applicable federal and state laws establishing standards of safety or quality. Each sale of a new mobile home is made with an implied warranty of fitness for a particular purpose and merchantability. These implied warranties cannot be waived.

A purchaser of a mobile home is deemed to take delivery when the home has been inspected and the test of all the systems in the home has been completed. Only those funds advanced to the seller as a requirement for the seller to order the mobile home are considered to be funds that the purchaser has placed "on deposit" for escrow purposes. Loan proceeds or payments made on an installment contract are expressly excluded from the requirement that they be kept in escrow until the mobile home has been delivered.

A certification and training program for manufactured home set-up and installation contractors is established. At least one certified installer must supervise the set up of a manufactured home.

Votes on Final Passage:

Senate	35	10	
House	96	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	79	15	
Senate	36	10	

Effective: April 1, 1994.

Partial Veto Summary: Sections of the bill requiring OFM to approve a fee schedule and relating to the Clean Washington Center were vetoed.

VETO MESSAGE ON SB 6107-S2

April 1, 1994

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 3, 5, and 6, Second Substitute Senate Bill No. 6107 entitled:

"AN ACT Relating to fees for services for the department of community, trade and economic development;"

Sections 1 through 8 of Second Substitute Senate Bill No. 6107 grant authority to assess fees for services provided by various economic development programs.

Section 3 would require the Office of Financial Management to approve a fee schedule proposed by the Department of Community, Trade and Economic Development. I am concerned that the section would set an inappropriate precedent for the Office of Financial Management's review of fees. Currently OFM approves certain internal revolving fund rates because of the effect these charges have on other state agency budgets. It does not approve specific fee schedules for the various fees assessed by other agencies. The section would establish an unnecessary oversight role for OFM.

Section 5 would grant authority to the Clean Washington Center to assess fees for services rendered. It prohibits fees to be assessed to any person who pays assessments imposed under chapter 82.18 or 82.19 RCW. I am concerned that the language is written so broadly that it would apply to nearly every citizen of the state who purchases a product upon which these taxes are levied. In effect, the Clean Washington Center would be denied the ability to assess fees. In the process of setting fees by rule, the

department shall take into account any assessments paid by a firm participating in the program.

Section 6 of the bill creates a Clean Washington Center fee account in the state treasury. I believe that it is more appropriate for the department to maintain these funds in a subaccount as they have authority to do under current law. For this reason, I am vetoing this section.

With the exception of sections 3, 5, and 6, Second Substitute Senate Bill No. 6107 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESSB 6111

C 154 L 94

Changing ethics provisions for state officers and state employees.

By Senate Committee on Government Operations (originally sponsored by Senators Drew, McCaslin, Gaspard, Sellar, Haugen, Snyder, Fraser, Franklin, Sheldon, Bauer, Owen, Spanel, Pelz, M. Rasmussen, Winsley, Oke and Skratek; by request of Commission on Ethics in Government & Campaign Financing, Governor Lowry and Attorney General)

Senate Committee on Government Operations
Senate Committee on Ways & Means
House Committee on State Government

Background: Early in the 1993 legislative session, the Legislature enacted a law establishing a Commission on Ethics in Government and Campaign Financing. This legislation was in response to reported abuses of legislative staff for campaign purposes and other general concerns with standards for both campaign practices and state employment.

The commission was charged to "study, hold public meetings, take public testimony, and make recommendations on the need and appropriate scope of legislation necessary to: (a) promote public trust and confidence in government; (b) promote fair campaign practices; and (c) ensure the effective administration of public disclosure, conflict of interest, and ethics laws." The commission was also charged to make a report by December 1, 1993.

The commission included the Governor, the Attorney General, a designee of the Chief Justice of the Supreme Court, two senators, two representatives, and ten citizen members appointed by the Governor - 17 members in all. During 1993, it met at various locations around the state.

The commission operated in two sub-groups. One focused on campaign and Public Disclosure Commission issues and the other focused on state employee ethics issues. A draft report was completed on December 1, 1993 and after a period of public comment and further debate within the commission, a final report was issued prior to the commencement of the 1994 legislative session.

Following the issuance of the preliminary report, work began to draft legislation to implement the recommendations of the report. This legislation has been introduced in the form of two bills, one focused on campaign and Public Disclosure Commission reform and one focused on state employee ethics issues.

The issues with regard to state employee ethics include concerns about the patchwork nature of current laws, the fact that various standards and definitions apply only to certain groups of employees or certain branches of state government, the laxity or lack of clarity in current law with regard to the receipt of gifts, outside employment, contracts with the state, post-public employment activities, honoraria, and the use of public resources for political campaign purposes. Concerns also include the absence of a credible enforcement process which involves citizen participation.

Summary: The laws prescribing ethical standards for state employees and statutory definitions pertaining to those laws are consolidated into a single chapter which applies to all branches of state government except where an individual requirement is expressly excluded. All current prohibitions are retained, recodified or otherwise restated and new prohibitions are added.

Prohibitions affecting state officers and employees include:

- any interest or business which is in conflict with state duties;
- transacting business on behalf of the state with an entity in which the employee has an interest;
- assisting another person in a transaction with the state in which the employee has either participated or had under his or her official responsibility within the preceding two years;
- accepting employment which might reasonably require the disclosure of confidential information obtained through state employment;
- refusing, in bad faith, to disclose information required to be released;
- using state position to obtain special privileges or exemptions;
- accepting employment within one year of leaving state employment with a business with which the employee negotiated a contract of a value of at least $10,000 and in the performance of which the employee will have a role;
- accepting employment or compensation if the circumstances would lead a reasonable person to believe it is a reward for performance or nonperformance of state duties;
- having any beneficial interest in a contract or grant within two years after leaving state employment where

the contract or grant was expressly authorized or funded by action of the employee or their agency;

- accepting any compensation or benefit beyond regular compensation provided by law for the performance of state duties;
- while employed by the state, accepting a contract or grant from the state, unless the services are bona fide and actually performed, the services are not under the employee's supervision; the services are not otherwise prohibited by conflicts of interest laws and rules or laws limiting the receipt of gifts; the contract is obtained through competitive bidding or, if the employee was the sole bidder or competitive bidding is not used, the contract is approved by the appropriate ethics board;
- accepting honoraria unless permitted under standards adopted by the employee's agency, which standards must be approved by the appropriate ethics board and meet minimal requirements established by law;
- accepting anything of economic value given to influence the performance of state duties;
  (NOTE: gifts with an aggregate value in excess of $50 may not be received from a single source in one year. Certain unsolicited gifts such as flowers, food at public receptions, etc. are presumed not to influence. Meals may be accepted on infrequent occasions if provided in the ordinary course and attendance is related to official duties. State employees in regulatory agencies are subject to stricter limitations.)
- using state resources for personal benefit;
- using, or knowingly acquiescing in the use of, state facilities to assist in any campaign for a person or ballot measure; and
- if responsible for the investment of state funds, having any direct or indirect interest in any subject of investment.

Separate ethics boards are established for the legislative and executive branches with authority to educate, render advisory opinions, investigate, conduct hearings, issue subpoenas, seek judicial enforcement of subpoenas, conduct hearings, impose penalties and recommend suspension and dismissal of violators. Penalties must be reduced by the amount of costs assessed, and penalties and costs together may not exceed $5,000. Ethics boards may comment on proposed agency rules.

The Legislative Ethics Board has nine members, five of which are nonlegislators. Provisions are included to provide for transfer of jurisdiction from the existing legislative ethics boards to the new legislative ethics board and granting the new board jurisdiction over violations occurring prior to its existence. The executive ethics board has five members appointed by the Governor subject to certain restrictions. Political activity by citizen members of the executive and legislative ethics boards is limited.

The jurisdiction of the Commission on Judicial Conduct is expanded to include employees in the judicial branch. The Judicial Conduct Commission may fulfill its obligations under this law by exercising its authority under Article IV, Section 31 of the Constitution.

The ethics boards may refer complaints to the affected agency for investigation or to the Attorney General for investigation or enforcement. Hearings before an ethics board may be conducted by an administrative law judge if the potential penalty is greater than $500. Orders of ethics boards are subject to reconsideration and review as provided by the Administrative Procedure Act.

The Attorney General may independently institute investigations for ethics violations and commence civil proceedings. When the Attorney General pursues a civil action against an ethics violator in cases where the Attorney General believes that a disposition by an ethics board was clearly erroneous, the Attorney General must first prove to the court that the action was, in fact, clearly erroneous, before otherwise proceeding with the case.

If the ethics boards and the Attorney General fail to take action on a complaint regarding the use of state facilities for a political campaign or ballot measure within a fixed time, citizens may institute actions for such violations.

The statute of limitations for ethics violations is extended from three years from the occurrence of the violation to five years from the occurrence, if there has been concealment by the person charged, or two years after it was, or reasonably should have been, discovered, whichever is later.

Votes on Final Passage:

Senate	44	1	
House	95	2	(House amended)
Senate			(Senate refused to concur)
House	91	1	(House amended)
Senate	48	1	(Senate concurred)

Effective: June 9, 1994
January 1, 1995 (Sections 101-121, 206-223, 301-316)

ESSB 6123

C 254 L 94

Modifying provisions of the model toxics control act.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Deccio, Amondson, Loveland, Snyder, Sellar, Skratek, Pelz and Winsley)

Senate Committee on Ecology & Parks
House Committee on Environmental Affairs

Background: The Model Toxics Control Act (MTCA) requires the Department of Ecology to conduct or require remedial action to remedy releases of hazardous substances. Under the MTCA, the current owner of the site,

the owner at the time of waste disposal, and those generating or transporting the waste are jointly and severally liable for the costs of site cleanup.

Uncertainty over future liability can be a deterrent to purchase and redevelopment of industrial lands. Under MTCA, the Attorney General may agree to a settlement with any potentially liable person if the agreement would lead to a more expeditious cleanup. In September 1993, Ecology entered into a consent decree to allow a prospective purchaser to commit to a defined cleanup liability. However, the Model Toxics Control Act is silent on criteria or procedures for prospective purchaser agreements.

Minimum cleanup standards for remedial actions have been established by rule by the Department of Ecology. In 1991, Ecology adopted rules to establish cleanup standards for industrial sites, to be used only on existing industrial sites where the cleanup action provides for institutional controls. The rules specified the standards would likely be used only at large industrial areas. These standards have thus far been applied only in the Commencement Bay and Duwamish areas.

Extremely hazardous and dangerous wastes are designated by rule by the Department of Ecology. These designations may be more stringent than those wastes designated as hazardous wastes by the federal government. In hazardous waste site cleanups, soils excavated at the site may be subject not only to the cleanup standards and procedures under MTCA, but also to the management and standards of the state's hazardous waste laws developed primarily to address current hazardous waste generation by ongoing businesses.

Summary: Legislative findings are made it is in the public's interest to integrate land use policies with cleanup policies, and to clean up and reuse contaminated industrial properties.

In addition to other types of enforcement orders and settlements, Ecology is authorized to enter "agreed orders" with which the potentially liable parties agree to comply. Such orders are not a settlement under MTCA, and do not provide contribution protection or provide eligibility for public funding of cleanup.

Industrial properties are defined as any properties zoned as manufacturing or industrial areas by a city or county planning under the Growth Management Act (GMA) , or are zoned for industrial use by cities or counties not planning under the GMA, and are adjacent to existing industrial areas.

The powers of the Department of Ecology are amended to allow the department to enter into consent decrees or agreed orders to limit future uses at sites where industrial cleanup standards are employed. The local planning authority must be given the opportunity to comment on any proposed deed restrictions. The Department of Ecology is also granted the authority to enforce permanent institutional controls implemented during remedial action.

The department must adopt rules providing for the application of industrial cleanup standards at industrial properties, and adopt rules prohibiting the conversion of industrial properties to other uses on properties where these standards have been applied. Industrial standards may not be applied to industrial properties where hazardous substances would pose a threat to persons residing in adjacent, non-industrial areas.

In addition to any other settlement powers, the Attorney General may enter into prospective purchaser settlements with persons not currently liable for remedial action at a facility, who propose to purchase and redevelop a facility. Criteria are given for qualification for a prospective purchaser agreement, including that the settlement must provide a cleanup plan, the settlement is in the public interest and will not increase health risks to people in the vicinity of the site, and the settlement will expedite remedial action.

Waste generated during a site cleanup is to be managed as a solid waste if the waste is not a hazardous waste under federal law, the cleanup is part of a settlement agreement, and the cleanup is protective of human health and the environment. City and county authority to condition or prohibit hazardous wastes entering a municipal landfill is not affected by the provisions of the bill.

Votes on Final Passage:

Senate	49	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994

ESSB 6124

C 285 L 94

Protecting homeowners' equity.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice, Newhouse, Fraser, Haugen, Winsley, Franklin and Oke)

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

Background: Some roofing and siding contractors solicit business door-to-door among elderly and low-income homeowners. In addition to their repair and remodel service, they often assure homeowners that they can arrange financing. At the request of the contractor, work is sometimes begun before the financing is arranged and truth-in-lending disclosures are made. Arrangements for financing are then made with very high interest rate lenders, which makes the contract unaffordable, and leads to foreclosure.

If work has commenced before the homeowner realizes the full cost, the contractor may already have lien rights for the work which forces the homeowner to go ahead with the contract and high interest rate loan regardless of the cost.

Summary: Roofing and siding contracts must be in legible written form and a copy provided to the homeowner at the time of signing. Work must be itemized and grade or quality of materials designated. Subcontracting arrangements must be disclosed.

New construction, emergency repairs, contracts in which the homeowner was not directly solicited by the contractor, and contracts involving only incidental roofing and siding are excluded from coverage of the act.

Roofing and siding contracts must require the homeowner to disclose whether he or she intends to obtain a loan for part or all of the payment due under the contract. If the customer indicates an intent to obtain a loan, the customer has a right to rescind the contract within three business days of receiving truth-in-lending disclosures, or three days of receiving notification that the loan application was denied, whichever is later.

If a roofing or siding contractor or salesperson generally does business by soliciting, it is presumed that any contract entered into with a homeowner results from solicitation. "Solicit" means contact with the homeowner initiated by the contractor or salesperson for the purpose of selling roofing or siding by phone, door-to-door or flyers left at the residence.

If a customer indicates an intent to obtain a loan to pay for the work, the roofing or siding contractor shall not begin work until after the homeowner's rescission rights have expired. If work is commenced prior to this time, the contractor is prohibited from enforcing the terms of the contract under any security interest or statutory lien created by the transaction. The same provisions apply to assignees of any roofing or siding contract.

Violations are made a violation of the Consumer Protection Act. Violators are liable to the homeowner for actual damages. Roofing and siding contracts, contractors, and roofing or siding salespersons are defined.

Votes on Final Passage:

Senate	39	5	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	95	0
Senate	44	2

Effective: June 9, 1994

ESSB 6125

PARTIAL VETO

C 255 L 94

Revising fees and procedures for recreational fish and hunting licenses.

By Senate Committee on Natural Resources (originally sponsored by Senators Owen, Haugen, Sellar, Spanel and Winsley; by request of Department of Fisheries and Department of Wildlife)

Senate Committee on Natural Resources
Senate Committee on Ways & Means
House Committee on Fisheries & Wildlife
House Committee on Revenue

Background: Prior to 1993, hunting and game fish licenses were administered by the Department of Wildlife, and food fish and shellfish licenses were administered by the Department of Fisheries. With the merger of those two departments, all licenses will be administered by the Department of Fish and Wildlife. Consolidating the license categories into a single form is considered by the department to be more efficient and user friendly.

Summary: A sport recreational license is created to include the personal use food fish, game fish, hunting, hound and eastern Washington upland bird licenses, and warm water game fish surcharge. The license may also include provisions for other special licenses.

Existing license provisions are amended to develop consistency between requirements for shellfish, food fish, game fish, and hunting licenses. The senior personal use food fish license fees are set at $3, and a nonresident game fish license fee of $20 is established for juveniles. The time period for a temporary license for food fish and shellfish is expanded from two days to three days. Uniform residency requirements, expiration dates, and veteran and disability exemptions are established for all licenses.

A number of changes are made to the license provisions. Fees for a personal use food fish license are increased by $1 to include the regional fisheries enhancement group surcharge. A one-day game fish licenses is created, at a fee of $3 for residents and $7 for nonresidents. An honorably discharged veteran, who is a resident and is confined to a wheelchair, may receive a hunting license free of charge.

Seaweed is added to the shellfish license to comply with provisions of SB 5980, adopted into law in 1993. Crawfish are removed from shellfish permit requirements.

The director is authorized to establish by rule the conditions for issuance of duplicate licenses, permits, tags, stamps and catch record cards. The fee for a duplicate license is set at $10 for licenses that are $10 and over, and for licenses under $10, the duplicate fee is the value of the license.

Licenses issued by either department in 1994 will be valid until their stated expiration date.

A warm water game fish enhancement program is created within the Department of Fish and Wildlife. A combined approach of habitat improvement and fish culture will be utilized to improve warm water fish populations. The new program will be funded by a warm water fish surcharge with an annual fee of $5. Persons over 70 years old will be required to pay a $1 surcharge. Persons under 15 years old may fish for warm water fish for free. The

warm water program will be restricted to bass, channel catfish, crappie, walleye and tiger musky. A dedicated account is established in the state wildlife fund, subject to legislative appropriation.

The warm water fish surcharge takes effect January 1, 1995.

Votes on Final Passage:

Senate	42	4	
House	80	18	(House amended)
Senate	41	3	(Senate concurred)

Effective: June 9, 1994
July 1, 1994 (Sections 14)
January 1, 1995 (Section 1-13)

Partial Veto Summary: All sections that create a warm water fisheries enhancement program are vetoed.

VETO MESSAGE ON SB 6125-S

April 1, 1994

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 15, 16, 17, 18, 19, 20, and 21, Engrossed Substitute Senate Bill No. 6125 entitled:

"AN ACT Relating to the creation of a combined recreational fish and hunting license document;"

Engrossed Substitute Senate Bill No. 6125 creates a sports recreational license that combines recreational fishing and hunting licenses and consolidates license categories into one document. These changes will provide more efficient service and will be less confusing to the public.

However, sections 15, 16, 17, 18, 19, 20, and 21 of Engrossed Substitute Senate Bill No. 6125 would direct the Department of Fish and Wildlife to create an expanded warm-water fisheries enhancement program financed by a new $5.00 (five dollar) fee to be imposed on those who fish for most species of warm-water fish.

In a time of fiscal constraint, I do not think it is wise to increase the cost of fishing licenses. Beyond that, in a time of problems emerging from endangered-species findings, from declining cold-water fisheries, from habitat loss, and from a host of other difficulties afflicting our fish and wildlife, I do not believe it is wise to earmark another fee to support only one program in the Department of Fish and Wildlife. The newly merged department already has a great number of special, earmarked funding mechanisms. Until there is a general review of the new department's programs and funding needs, I hesitate to establish yet another fund, and with it a new fisheries program. For these reasons, I am vetoing sections 15, 16, 17, 18, 19, 20, and 21.

With the exception of sections 15, 16, 17, 18, 19, 20, and 21, Engrossed Substitute Senate Bill No. 6125 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SB 6135

C 35 L 94

Modifying provisions regarding licensure of psychologists.

By Senators Talmadge, McDonald and Prentice

Senate Committee on Health & Human Services
House Committee on Health Care

Background: The definition of a psychologist has not been substantively changed since it was first described in 1965. Those within the profession are concerned the present definition does not adequately reflect the practice of psychology today.

Summary: The definition of the practice of psychology is updated to reflect current practice. Reference to the disciplinary committee is removed because it is no longer used. The Psychology Board or a panel of the board acts as disciplinary authority.

Failure to renew a license is changed from a "suspension" to an "expiration" to distinguish this change of license status from one taken for disciplinary purposes.

The life of the Psychology Board is extended beyond its current expiration date of June 30, 1995 to June 30, 2004. The sunset date for the statutes governing the board is extended from June 30, 1996 to June 30, 2005.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 9, 1994

SSB 6138

C 196 L 94

Changing obstructing a public servant to obstructing a law enforcement officer.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: The crime of obstructing a public servant is committed if a person: 1) refuses or knowingly fails to make a statement lawfully required of him to a public servant; 2) makes a knowingly false statement to a public servant; or 3) knowingly hinders, delays, or obstructs any public servant in the discharge of official duties. In 1982, the Washington Supreme Court found the first two sections of the statute unconstitutionally vague, but the statute has never been amended to reflect that decision.

Summary: The crime of obstructing a public servant is renamed obstructing a law enforcement officer. The crime is committed if a person willfully makes an untrue or misleading statement to a law enforcement officer during the course of an investigation or arrest, or, if a person willfully

hinders, delays or obstructs a law enforcement officer in the discharge of official duties.

Law enforcement officer is defined to include any general authority, limited authority, or specially commissioned Washington peace officer, or federal peace officer, and other public officers responsible for enforcement of fire, building, zoning, and life and safety codes.

The classification of the crime is increased from a misdemeanor to a gross misdemeanor.

Votes on Final Passage:

Senate	49	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994

SB 6141

C 36 L 94

Changing the start up date of the new composition for the public employees' benefits board.

By Senators Talmadge, Moyer, Gaspard, Sellar, Wojahn and Winsley

Senate Committee on Health & Human Services
House Committee on Health Care

Background: Under current law, the Public Employee Benefits Board is composed of seven members: three from active and retired state employee groups, three with experience in health benefit management and cost containment, and the administrator of the state Health Care Authority. The board is charged, among other things, with designing the benefits and determining the terms and conditions of employee participation and coverage for public employee health benefit plans.

The Public Employee Benefits Board exercises control over some state funded school district health benefit plans as well. By July 1995, all state funded school district employee health benefits must be determined by the Public Employee Benefits Board in a manner consistent with state law. The board is presently working with the Health Care Authority administrator and others to plan for this transition.

Under current law, the board will expand to nine in July 1995, adding two school employee representatives and one additional person with experience in health benefit management and cost containment. At that time, one state employee representative will be removed from the board.

Some have suggested this change in composition should be accomplished immediately in order to provide for more formal participation by school district employees in planning the transition.

Summary: Effective immediately, the Public Employee Benefits Board is expanded from seven to nine members by removing one state employee representative, adding two school district employee representatives, one of who must be retired, and by adding one additional person with experience in health benefit management and cost containment.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: March 21, 1994

SSB 6143

C 197 L 94

Establishing membership service credit.

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Newhouse, Bauer, Nelson, Vognild, Winsley, Moore and Haugen)

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Members of the Law Enforcement Officers' and Fire Fighters' Retirement System Plans I and II (LEOFF I and II), the Teachers' Retirement System Plans I and II (TRS I and II), the Public Employees' Retirement System Plans I and II (PERS I and II) and the Washington State Patrol Retirement System (WSPRS) who leave public employment can withdraw their retirement contributions to these systems. Any employee who later returns to an eligible position in the same retirement system can restore previously earned retirement service credit by repaying the withdrawn contributions, plus interest, within five years.

TRS Plan I and PERS Plan I require the Department of Retirement Systems to notify the employer of a returning employee, who in turn must notify the returning employee, of the amount of potential service credit that can be restored, the amount of funds required for the restoration, and the date by which the restoration must be completed.

Members of LEOFF II, TRS II and PERS II may, upon retirement, choose to receive a lump sum payment in lieu of a benefit if their monthly benefit is less than $50. If such a person subsequently returns to member status, he or she may reinstate all previous service by repaying the lump sum payment plus interest within two years of returning to service or prior to re-retiring, whichever comes first. The amount of the lump sum payment is reduced by the value of the retirement payments the member would have received if the lump sum payment had not been made.

Members of LEOFF II, TRS II and PERS II may receive up to two years of retirement service credit for periods of unpaid, authorized leaves of absence by paying the member, employer and, in the case of LEOFF, the state contributions plus interest within five years of resuming

service. Members of the Plan II systems may also receive up to four years of service credit for military service that interrupts the members' employment by paying employee contributions plus interest within five years of resuming service in a retirement system.

Members of TRS I who teach less than full time may receive service credit if they make the necessary payments by June 30 of the year following the year in which they were employed part time.

Members of LEOFF II, PERS I and II, TRS I and II, and the WSPRS who were also previously members of another of these systems may become eligible for portability by restoring, within two years of becoming a member of the second system, contributions and interest withdrawn from the previous system.

Summary: Members who have failed to meet statutory deadlines for restoring service credit, for establishing allowable membership service not previously credited, or for restoring service credit represented by a lump sum payment in lieu of benefits may receive such service credit by paying the actuarial value of the resulting increase in their benefit.

At the time a member leaves a state-run retirement system and withdraws retirement contributions, the Department of Retirement Systems shall notify the member of the right to restore the contributions upon resuming membership in the retirement system, and the requirements involved in such restoration.

Votes on Final Passage:

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

Effective: January 1, 1995

SB 6146

C 144 L 94

Diversifying the economy by locating a film and video production facility within the state.

By Senators Skratek, Bluechel, Sheldon, Erwin, M. Rasmussen, Drew, McAuliffe, Roach and Snyder

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing
House Committee on Appropriations

Background: In 1993 the Legislature created the Department of Community, Trade, and Economic Development. One of the responsibilities of the new department is to focus assistance on targeted sectors of the economy. The department was specifically directed in the 1993 legislation to promote, market, and encourage growth in the production of films, videos, and television commercials in the state.

Summary: The Department of Community, Trade, and Economic Development is directed to assist in the location of a film and video production studio in the state. The act is nullified if not funded in the budget.

Votes on Final Passage:

Senate	48	0	
House	96	2	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 1994

SB 6147

C 48 L 94

Increasing the length of terms for appointed members of the council for the prevention of child abuse and neglect.

By Senators Wojahn, Moyer and Prentice

Senate Committee on Health & Human Services
House Committee on Human Services

Background: The Washington Council for the Prevention of Child Abuse and Neglect was created in 1982 for the purpose of contracting with, public and private, groups and individuals to establish community-based educational and service programs relating to the prevention of child abuse and neglect.

Four of the council members appointed by the Governor serve terms of two years. The other three appointed members serve three-year terms. It is suggested that all of the appointed members' terms should be extended to three years.

Summary: All of the appointed members of the Washington Council for the Prevention of Child Abuse and Neglect serve three-year terms.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 9, 1994

ESSB 6155

C 304 L 94

Changing provisions relating to schools.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Winsley, Franklin, Prentice and Bauer)

Senate Committee on Education
House Committee on Education

Background: Many teachers, students, administrators, and parents are concerned about the growing level of violence in society and in schools.

Summary: Current law requiring school districts to send permanent records of transferring students, even if students have not paid fines, is changed to permit school districts to withhold permanent records of students for failure to pay fines.

When a student transfers to another school, the receiving school may request the student and parent to provide brief information about the student's history in former schools.

The receiving school shall request the sending school to send the student's permanent record. If the student has not paid fines, the sending district shall transmit information about the student including information about the academic performance, special placement, and records of disciplinary action. However, the sending district may withhold the permanent record or official transcript. The student must be given notice that failure to have a permanent record may result in failure to graduate or exclusion from extracurricular activities.

When the information is requested by the receiving district, the information must be transmitted by the sending district within two school days.

Family reconciliation services may include information on parenting, conflict management, and dispute resolution.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 1, 1994

ESB 6158

C 145 L 94

Modifying regulations for control of tuberculosis.

By Senators Talmadge, Moyer, Wojahn and McAuliffe; by request of Department of Health

Senate Committee on Health & Human Services
House Committee on Health Care

Background: Washington State has seen a 48 percent rise in tuberculosis (TB) since 1984. At least one of the 306 new infections reported in 1993 occurred in every county.

While HIV/AIDS increases susceptibility to TB, only 12 percent of the new cases reported in 1993 are HIV/AIDS related. TB cases are occurring more frequently in people arriving from countries with high rates of TB. Almost half of all new TB cases now are among foreign born persons, with 31 percent of these being those in the U.S. for less than one year.

Cultural and language barriers, HIV/AIDS infection, and the fact that many persons now diagnosed with TB are homeless or highly mobile, all hamper case identification and compliance with curative treatment.

In addition, recent medical research has identified a multi-drug-resistant form of TB (MDR-TB). It occurs when patients fail to complete the six month to two year drug therapy usually prescribed for TB. Once MDR-TB develops, it is also transmitted in air, and is resistant to the drugs commonly used, leaving far fewer effective treatment options. MDR-TB may be fatal in up to 50 percent of cases.

A recent Department of Health study identified several improvements it believes are needed to strengthen current TB control efforts. These include more aggressive treatment of some infected persons through Directly Observed Therapy, the designation of involuntary treatment facilities for some persons, and more clearly delineated legal processes for involuntary detention, testing, and treatment of some persons infected with TB.

Summary: The Legislature intends that culturally sensitive and medically appropriate treatment and education be provided regarding TB. The state Board of Health must adopt rules establishing requirements for: (a) reporting confirmed or suspected cases of TB by health care providers and for reporting laboratory test results, (b) due process standards for health officers exercising their authority to involuntarily detain, test, treat, or isolate persons with suspected or confirmed TB, and (c) training of personnel to perform TB skin testing and to administer TB medications.

Due process standards which the Board of Health must adopt must provide for release of patients as soon as a health officer determines the patient is no longer a risk to the public's health.

Persons trained according to rules developed under this act may perform skin testing and administration of TB medications if doing so as part of a program established by a state or local health officer to control TB.

The state Board of Health must adopt rules under this act by December 1, 1994.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 9, 1994

SSB 6188

C 57 L 94

Implementing the National Voter Registration Act.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley and Drew; by request of Secretary of State)

Senate Committee on Government Operations
House Committee on State Government
House Committee on Appropriations

SSB 6188

Background: In May, 1993 the President signed into law the National Voter Registration Act of 1993 (NVRA). This new law is intended to make voter registration more accessible to the public and to limit the basis for removing voters from the registration rolls. It is necessary with respect to federal elections to amend state law to conform to these new federal requirements. As a practical matter, the burden of maintaining dual registration requirements in the state, one for federal elections and the other for state and local elections, dictates the changes be uniformly applied.

The NVRA requires individuals be given an opportunity to apply for voter registration or to update their registration: when applying for or renewing a driver's license; when applying for or receiving certain types of public assistance and other state services; by mail; and at military recruiting offices.

The NVRA requires various records be maintained, including records of refusals to register (declinations) as a means of monitoring compliance with the act.

The NVRA prohibits the purging of voters' names from the rolls solely for failure to vote and requires a program for positively confirming the accuracy and currency of the registration lists. The NVRA also requires certain fail-safe procedures to ensure the right to vote is not denied as a result of bureaucratic or legal technicalities.

Washington is already in substantial compliance with the NVRA because of its "motor voter" program and registration by mail program. Some modification in state law is required, however, to fully meet the new federal requirements with regard to registration at other state offices, record keeping, and purging procedures. The federal requirements become effective on January 1, 1995.

Summary: Terminology: The general definitions in the election code are amended to add the term "special ballot." Registered voters are distinguished as either "active" or "inactive." The term "deputy registrar" is changed to "registration assistant." The phrases "information required for voter registration" and "date of mailing" are defined. The terms "verification notice," "acknowledgement notice" and "confirmation notice" are defined.

General Authority: The Secretary of State is authorized to coordinate those state election activities required by federal law and to adopt rules regarding registration requirements for state agencies and county auditors.

The Governor, in consultation with the Secretary of State, shall designate agencies to provide voter registration services.

The requirement the registrar in a public school be a school official or employee is deleted.

Records and Public Access: Original voter registration forms and their images are excluded from records generally available for inspection or by the public or copying for commercial purposes. County auditors shall maintain for two years records of any programs or activities for the purpose of assuring the accuracy and currency of the official lists of eligible voters.

Registration Procedures and Forms: The Secretary of State shall design and provide standard voter registration forms to be used by state agencies. Procedures are established for auditors to verify incomplete registration applications. The required warnings and oaths given and made in connection with registration are amended to clarify language and use the active rather than passive tense.

Current statutes are amended to accommodate registration by mail. City and town clerks are given greater discretion with respect to how they provide registration services. The transmittal of voter registration information by county auditors to the Secretary of State by electronic means is accommodated.

Any person to whom a state agency must extend an opportunity to register, who does not expressly decline, must be provided either a mail-in voter registration application or a prescribed agency application. Agencies required to provide voter registration services may establish computer connections with the Secretary of State or must forward required information on a weekly basis. Written assurances a declination to register or the location at which a voter registers shall remain confidential are mandated.

Standards and procedures for determining whether a voter registration application is complete, for verifying applications and for classifying a voter as "active" or "inactive" are established. Inactive voters are not counted when determining the size of a precinct.

Disclosure to the public of the agency or Department of Licensing (DOL) driver's licensing office at which a particular voter registered or chose not to register is expressly prohibited.

Purging Procedures: County auditors may use newspaper obituary articles as a basis to triggering a registration cancellation process.

DOL is required to transmit to the Secretary of State information regarding changes of address. The Secretary of State must forward such information from DOL to the appropriate county auditor on a weekly basis.

Within 14 days of a judgment of conviction of an individual for a felony, the court clerk must transmit the name and residence address of the felon to the county auditor. Upon receipt of such information, the auditor shall strike the name from any roll of registered voters.

County auditors shall establish a general program of voter registration list maintenance to be applied uniformly throughout the county in a nondiscriminatory manner. Any such program must be completed at least 90 days before the date of a primary or general election for federal office. Several types of programs are prescribed.

Uniform procedures are established for auditors for registration applications or change-of-address information which identify a new residence address.

Auditors are given discretion to determine whether ballot applications rather than ballots are to be mailed to inactive voters in certain vote-by-mail elections.

Polling Site Procedures: The requirement that the county auditor certify the authenticity of registration files delivered to precincts is deleted.

Criminal Provisions: The following are class C felonies: knowingly causing oneself to be registered in two or more counties; and offering or accepting payment to assist in registering voters where payment is based on a fixed amount per registration.

Votes on Final Passage:

Senate	43	0	
House	98	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 9, 1994
January 1, 1995 (Sections 1-3, 7, 10-12, 21, 22, 25, 27, 28, 31-34, 37-40, 42, 44-52, 54)

SSB 6195

C 58 L 94

Modifying enforcement authority of the public employment relations commission.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice, Moore, McAuliffe, West, Franklin, Ludwig, Roach, Fraser, Bauer, Vognild and Pelz)

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

Background: Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act. The act directs the Public Employment Relations Commission (PERC) to prevent unfair labor practices, and establishes certain procedures that the commission must follow in doing so. Under these procedures, the commission must wait 30 days after it enters its finding regarding an unfair labor practice before it can petition a superior court for an injunction.

There is concern that this 30 day delay is unnecessary and inconsistent with other laws, and could allow irreparable harm to employers or employees.

Summary: The language establishing a procedure for PERC to prevent unfair labor practices is simplified. PERC is authorized, once it is determined that someone is engaging in an unfair labor practice, to immediately petition a superior court for injunctive relief.

Votes on Final Passage:

Senate	35	10
House	82	13

Effective: June 9, 1994

SB 6202

C 59 L 94

Regulating the size and weight of motor vehicles.

By Senators Vognild and Nelson

Senate Committee on Transportation
House Committee on Transportation

Background: A truck combination consisting of a truck-tractor and a single trailer may operate on our highways without a permit if the trailer is 48 feet or less in length. Special overlength permits may be purchased from the Department of Transportation which allow the operation of a tractor/trailer combination if the trailing unit does not exceed 56 feet. The 30-day permit fee is $10; an annual permit may be purchased for $100.

Forty-eight states (Washington and Utah excluded) allow a truck-tractor/trailer combination whose trailing unit is 53 feet or less in length to operate without a special overlength permit.

Summary: A combination consisting of a truck-tractor and single trailer may operate on the public highways without a permit if the trailing unit is 53 feet or less in length.

The maximum length allowed by special overlength permits remains at 56 feet. A special overlength permit is required for a single trailing unit over 53 feet and up to the maximum of 56 feet.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 9, 1994

SB 6203

C 198 L 94

Changing limits on rural partial-county library districts.

By Senators Snyder, Haugen and Spanel

Senate Committee on Government Operations
House Committee on Local Government

Background: In 1993 the Legislature authorized the creation of rural partial county library districts. A necessary requirement for the formation of such a district is that the proposed district have an assessed value of at least $50 million. The purpose of this requirement is to assure that the new district has sufficient revenue, based upon a maximum levy of 50 cents per $1,000 in assessed value, to operate a viable and efficient library system.

In the event a rural partial county library district were to contract for library services through an interlocal agreement with an existing neighboring library district, the minimum assessed valuation requirement should not be necessary.

Summary: The condition that a rural partial county library district have an assessed valuation of not less than $50 million is repealed. If, at the time of creation, a rural partial county library district has an assessed valuation of less than $50 million, it may provide library services only by contracting for the services through an interlocal agreement with an adjacent library district or city or town. If the assessed valuation of the district subsequently rises above $50 million, this limitation shall not apply.

Votes on Final Passage:

Senate	42	0	
House	97	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 9, 1994

SSB 6204

C 286 L 94

Changing seaweed harvesting provisions.

By Senate Committee on Natural Resources (originally sponsored by Senators Snyder and Haugen)

Senate Committee on Natural Resources
House Committee on Fisheries & Wildlife

Background: Seaweed is used extensively by fish populations for protection and for spawning. Studies have shown removal of seaweed, especially kelp, has a detrimental effect on salmon production. The 1993 Legislature set a limit on the amount of seaweed which could be taken from private and public lands.

Summary: The commercial harvesting of seaweed from private and public aquatic lands is prohibited.

It is a misdemeanor to over-harvest for personal use. Treble damages may be awarded for damage to natural resources. Damages may be awarded for resource restoration, loss of seaweed or injury to the aquatic ecosystem. The Department of Fish and Wildlife and the Department of Natural Resources may jointly allow a herring on kelp fishery. Kelp may not be imported after July 1, 1995, for use in the herring on kelp fishery.

Votes on Final Passage:

Senate	48	0	
House	93	1	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	93	3	
Senate	45	0	

Effective: July 1, 1994

SB 6205

C 305 L 94

Regulating ready-mix mixer trucks.

By Senators Vognild and Prince

Senate Committee on Transportation
House Committee on Transportation

Background: Ready-mix cement trucks have two types of controls that operate the retractable or tag axle. These controls are used to distribute weight, thereby reducing pavement damage. The up/down switch, usually located in the cab, controls the lifting of the axle. The variable control, used to adjust axle loadings by regulating air pressure, is located outside the cab.

By Department of Transportation administrative rule, the up/down switch for a retractable lift axle may not be located within the reach of the driver. However, if the lift axle cannot be raised or lowered while the vehicle is in motion, the up/down switch may be located in the cab. This means that the up/down switch must be modified so that the axle cannot be raised or lowered while the vehicle is in motion. The variable control is still required to be located outside the cab.

Summary: Cement truck operators may use the up/down switch located within the cab to raise or lower the retractable rear booster or tag axle while the vehicle is in motion.

Votes on Final Passage:

Senate	42	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 9, 1994

SB 6215

C 37 L 94

Clarifying authority of the utilities and transportation commission over public service companies.

By Senators Skratek and Vognild

Senate Committee on Transportation
House Committee on Transportation

Background: A "public service company" is an intrastate common carrier subject to the economic and safety regulation of the Utilities and Transportation Commission (UTC). For-hire trucks, railroads, and certain vessels are considered public service companies.

When a complaint is filed with the UTC, alleging an illegal carrier is performing an intrastate transportation service for compensation and without operating authority, the commission investigates the complaint. If the commission determines the complaint is valid, it sends the defendant a copy of the complaint, along with a notice of a classification hearing before an administrative law judge.

The purpose of the hearing is to ascertain if the carrier is operating as a common carrier and should be classified as such. The defendant must prove to the commission he or she is not an intrastate common carrier.

If it is determined the carrier is operating in intrastate commerce without the proper authority, the commission issues (1) a cease and desist order, and (2) an administrative order declaring the carrier must obtain intrastate operating authority prior to providing the transportation service. There is no provision for imposition of an administrative penalty. If the non-certificated carrier continues to operate without proper authority, the UTC obtains an injunction in superior court to enforce the commission's order.

If a certificated carrier is found guilty of performing a service beyond the scope of its operating authority, the commission imposes an administrative penalty of $100 per violation. Each violation is a separate and distinct offense, and in the case of a continuing violation, each day's continuance is a separate offense. The carrier has 15 days from the date of notification to request mitigation of the penalty. If mitigation is not requested and the penalty is not paid within the 15-day period, action is taken in superior court to obtain an injunction to enforce the commission's order.

Summary: A person(s) or entity acting as a public service company, who provides a transportation service without having first obtained intrastate operating authority from the Utilities and Transportation Commission, is subject to the same classification hearing and penalty provisions imposed on a certificated intrastate common carrier who exceeds its operating authority.

Votes on Final Passage:

Senate	45	3
House	96	0

Effective: June 9, 1994

SSB 6217

C 199 L 94

Requiring the joint task force on unemployment insurance to study additional issues.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Newhouse, Vognild, Moore, Amondson, Prentice, Sutherland, Fraser, McAuliffe and Winsley)

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

Background: In 1993 the Legislature established the Joint Task Force on Unemployment Insurance in order to undertake an in-depth review of Washington's unemployment insurance program. The task force is composed of four members of the House of Representatives, four senators and four representatives from labor and business, respectively. The task force in its report to the Legislature outlined a series of recommendations regarding policies and administration of unemployment insurance in Washington State.

The task force requested that it be reauthorized through 1994 in order to: undertake a more in-depth review of targeted issues; work collaboratively with the Employment Security Department in implementation of task force recommendation; and assist the department in responding to federal initiatives and economic change.

Summary: The Joint Task Force on Unemployment Insurance is reauthorized in order to: (1) undertake more in-depth review of targeted issues concerning unemployment insurance; (2) work collaboratively with the Employment Security Department in implementation of task force recommendations; (3) assist the department in responding to federal initiatives and economic change; in particular, the new claimant profile requirement which must be implemented by 1994; and (4) review the issues concerning private nonprofits and government agencies that participate in the state's unemployment insurance program but do not pay federal unemployment insurance tax (FUTA).

The task force is scheduled to report to the Legislature by January 15, 1995.

Votes on Final Passage:

Senate	45	0	
House	97	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 9, 1994

SB 6220

PARTIAL VETO

C 306 L 94

Creating the quality award council.

By Senator Cantu

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing

Background: On the national level, the Malcolm Baldridge Award has set standards for excellence, encouraged organizational self-assessment, identified successful organizations as role models, and promoted a commitment to quality improvement. Many states have established state quality awards to further these same goals.

Summary: The Washington Quality Award Council is established as a part of the Quality for Washington Foundation. The council has the Governor and the Director of the Department of Community, Trade, and Economic Development as chair and vice-chair and members with experi-

ence in new production technologies, methods of quality control, and labor-management relations.

The council is to establish the Governor's Quality Achievement Award Program with the purpose of improving the overall competitiveness of the state's economy. In addition, it is to develop and make available a list of quality improvement related resources. It may also conduct public information, research, and assistance programs.

The council is to report on its activities and make recommendations regarding state programs or policies encouraging quality improvement and the development of high performance work organizations.

The council is to sunset July 1, 2004.

Votes on Final Passage:

Senate	48	0	
House	97	1	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 9, 1994

Partial Veto Summary: The emergency clause giving the bill immediate effect was vetoed.

VETO MESSAGE ON SB 6220

April 2, 1994

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. 6220 entitled:

"AN ACT Relating to quality awards;"

Senate Bill No. 6220 creates the Quality Award Council to be appointed by the Governor. The council would promote attention to producing quality products and services in the private and public sectors through educational activities and an annual award. The Quality Award Council is modeled on the national Malcolm Baldridge Award and the International Deming Award.

I am very supportive of the ideals expressed in this bill. I have committed my administration to continuously improving the quality of public sector services as evidenced by cabinet level appointments to the Quality Service Network, by the newly merged Department of Fish and Wildlife and Department of Community, Trade and Economic Development with their development of outcome based measures of service, quality and effectiveness, and my participation with the legislature in the Washington Performance Partnership initiative.

Although I strongly support the creation of an award which would recognize excellence in quality, I am concerned about the vehicle used to establish the award. Senate Bill No. 6220 creates a council in statute at a time when I have been working with the legislature to minimize statutory boards and commissions. Moreover, the awkward organizational structure created by this bill seems an unnecessary and complicated means toward an otherwise laudable goal.

Nonetheless, with the exception of section 2 which would provide for an immediate implementation of this bill, I am signing Senate Bill No. 6220 because I am comfortable that the Quality Award Council and the quality achievement award program can be structurally tailored to meet the objectives of recognizing quality and improving competitiveness. I have directed my staff to work with the Quality Service Network, the legislature, and other interested parties to improve the award process contained in this bill and to minimize impacts on state government while maintaining visibility for quality production and service delivery in both the public and private sectors.

With the exception of section 2, Senate Bill No. 6220 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SB 6221

C 146 L 94

Authorizing genetic testing to determine parentage.

By Senators A. Smith and Quigley

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Blood and genetic testing are regularly used in the determination of paternity. In cases where paternity is contested, Washington law allows for the court to compel blood testing. At the time the current statutes regarding the use of blood tests were enacted, blood testing was the only available method. Advances in science and technology have since expanded the methods of testing available to make paternity determinations. These methods include genetic tests of blood, tissues, and other bodily fluids which are now routinely used and accepted by the scientific community.

Summary: The paternity statutes are amended to allow for the use of genetic tests of blood, tissues, or other bodily fluids as methods of testing to determine paternity.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: June 9, 1994

ESSB 6228

C 307 L 94

Revising provisions relating to definitions of agricultural and forest land of long-term commercial significance.

By Senate Committee on Natural Resources (originally sponsored by Senators Haugen, Anderson, Owen, Hargrove, Sellar, Oke, McAuliffe and M. Rasmussen)

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

Background: The Growth Management Act defined lands of long-term commercial significance. Definitions of those lands have caused problems in the continued operation of forest management on commercial forest lands covered by the act.

Summary: Legislative intent provides long-term protection be given to lands which grow timber. Clarification of definitions does not require all counties covered by the Growth Management Act to readopt plans.

Forest land is defined as land devoted to growing commercial timber. "Long-term commercial significance" means land with growing capacity, productivity, soil composition and economic viability for long-term production based on the land's nearness to population areas, surrounding uses and parcel sizes.

Upland finfish hatcheries are added to the definition of agricultural land.

Votes on Final Passage:

Senate	47	0	
House	90	4	(House amended)
Senate	38	0	(Senate concurred)

Effective: June 9, 1994

SSB 6230

C 287 L 94

Changing charitable organizations and business licensing provisions.

By Senate Committee on Law & Justice (originally sponsored by Senators M. Rasmussen, Nelson and Haugen; by request of Secretary of State)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: In 1993 legislation was enacted to update the statutes which govern the activities of the Corporations Division and to strengthen the laws concerning charities, commercial fundraisers, and charitable trusts. As the 1993 laws have been reviewed, several problem areas and oversights have been noted which require some revisions be made to clean up and clarify the previously enacted legislation.

In addition, a few minor changes are being requested by the Secretary of State to help facilitate the administration of charity organizations.

Summary: The Secretary of State shall set the base revenue amount exemption for charity filing by rule rather than having the amount set by statute.

The specific reference to a "toll free" number for consumer information is changed to refer to a "telephone" number for access to consumer information.

Revisions are made to clarify some of the requirements set forth in previously enacted legislation.

Technical revisions are made changing the setting of certain fee amounts by statute to setting those fees by rule.

Votes on Final Passage:

Senate	39	8	
House	98	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	96	0	
Senate	35	11	

Effective: June 9, 1994

2SSB 6237

C 147 L 94

Implementing the veteran estate management program.

By Senate Committee on Ways & Means (originally sponsored by Senators Franklin, M. Rasmussen, Winsley, Erwin, Quigley, Sellar and Oke; by request of Department of Veterans Affairs)

Senate Committee on Government Operations
Senate Committee on Ways & Means

Background: The Director of the Department of Veterans Affairs or the director's designee is authorized to act as (1) executor under the last will of any deceased veteran; (2) administrator of the estate of any deceased veteran; (3) guardian or duly appointed federal fiduciary of the estate of any insane or incompetent veteran; (4) or guardian or duly appointed federal fiduciary of the estate of any person who (a) resides in the state of Washington, and (b) who is certified as having money due from the Veterans Administration, the payment of which is dependent upon the appointment of a guardian or other type of fiduciary.

No fee to the director or the director's designee or to any attorney may be charged to the estate. The director or the director's designee or any other interested person may petition the court for the appointment of the director or the director's designee. This petition is again without cost or fee.

Currently, this only applies to estates valued at $15,000 or less.

Summary: The Veteran Estate Management Program is created in order to allow the Director of the Department of Veterans Affairs or the director's designee to serve as administrator, guardian of the estate or federal fiduciary of an incapacitated veteran's estate or as the executor of a deceased veteran's estate. The estate of an incapacitated veteran's dependant is newly brought under the statute's purview.

Some veterans or their dependents are incapacitated. In order to receive benefits or entitlements, these incapacitated people may be required by the United States Department of Veterans Affairs or by the Social Security Administration to have a federal fiduciary or representative payee to receive their benefits on their behalf. When a family member is not available to serve as guardian and

the incapacitated person requires the services of a court appointed guardian or other type of fiduciary, the Director of Veterans Affairs or any other interested party may petition a court or authority to be appointed as guardian or fiduciary. Likewise, when a veteran is deceased and has not designated an executor, the director or any other interested person may petition the court to be appointed as executor.

There is no limitation on the size of the estate which may come under the Veteran Estate Management Program's jurisdiction. The Veteran Estate Management Program is authorized, but not required, to charge the estate of the incapacitated or deceased veteran, but not the estate of the incapacitated dependent, who is a client of the program. The fees are set at the amount allowed by federal Department of Veterans Affairs rules. The director is allowed to waive all or part of that claim that poses a hardship to the veteran. Any fees collected are to be deposited in the state general fund-local and shall be available for the cost of managing and supporting the program. No member of the department may serve as guardian for a resident of the state veterans' homes.

Votes on Final Passage:

Senate	46	0	
House	94	1	

Effective: June 9, 1994

SSB 6243

C 308 L 94

Relating to the capital budget.

By Senate Committee on Ways & Means (originally sponsored by Senators Rinehart and Quigley; by request of Office of Financial Management)

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: Every two years the Legislature adopts a biennial capital budget approving the expenditure of state moneys for capital purposes. On even-numbered years, a supplemental capital budget is adopted to address emergent needs for school construction, institutions of higher education, and other state facilities.

Summary: Appropriation adjustments are made to the 1993-95 capital budget.

The general fund bond supported appropriations made for new projects in the 1993-95 biennial capital budget are increased by $16,237,595. Changes in reappropriations and other fund adjustments reduce the total 1993-95 capital appropriations by $18,567,347.

(See budget section for additional information.)

Votes on Final Passage:

Senate	46	2	
House	88	0	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	96	0	
Senate	45	2	

Effective: April 2, 1994

ESSB 6244

PARTIAL VETO

C 6 L 94 E1

Making appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senators Rinehart and Quigley; by request of Office of Financial Management)

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The state government operates on a fiscal biennium that begins on July 1 of each odd-numbered year. Funds for the 1993-95 operations of the agencies and institutions of state government were appropriated during the 1993 legislative session (Chapter 24, Laws of 1993 sp. sess.). Proposals for supplemental appropriations are considered during legislative sessions in even-numbered years.

Summary: Appropriations from the state General Fund and other dedicated funds and accounts for the 1993-95 fiscal biennium for the operations of state agencies and institutions are modified. Net appropriations from the General Fund are $69 million in the supplemental budget. Total biennial General Fund expenditures are $16.3 billion.

(See budget section for additional information.)

Votes on Final Passage:

Senate	39	9	
House	60	33	(House amended)
Senate			(Senate refused to concur)
First Special Session			
Conference Committee			
House	54	39	
Senate	33	14	

Effective: April 6, 1994

Partial Veto Summary: Fourteen partial vetoes were made in the appropriations act. The Governor vetoed legislative appropriations, or restrictions on expenditures, relating to the long-term care ombudsman program, growth management planning, oil spill education and training, rural economic development, water rights permits, state park fees, warm water fish enhancement, higher education financial aid, and studies or planning for developmental disability services, tax assistance to businesses, statewide

collocation of state facilities, and the Employment Security Department's use of computer technology.

VETO MESSAGE ON SB 6244-S

April 6, 1994

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 122(10); 122(12); 123; 132(3); 135(9); 145(15); 204(4) (h); 228(19); 303(8) (b); 305, page 87, lines 3 and 4; 305(1); 311, page 92, line 31; 311(5); 603, page 127, lines 17 and 18; and 610(5) (a), Engrossed Substitute Senate Bill No. 6244 entitled:

"AN ACT Relating to fiscal matters;"

My reasons for vetoing these sections are as follows:

Section 122(10), pages 18 and 19, Long-Term Care Ombudsman Program (Department of Community Development)

Section 122(10) provides additional resources for a long-term care ombudsman in Kitsap County; requires a minimum of $10,000 be allocated to each of the 14 long-term care regions; limits the amount of the appropriation that can be spent on administration; and prohibits any reductions in existing contracts. It further requires the Department of Community Development to report to the fiscal committees of the legislature on the allocation of funding for Long-Term Care Ombudsman (LTCO) services, including recommendations for changes in the distribution of funding.

I am concerned that the limitations on administrative expenditures would reduce direct support for the regions currently provided by the LTCO central office. The central office would likely have to adopt a fee-for-service approach to pay for those services to the regions. Simply accounting for these transactions would drain resources from direct services in the regional and central offices. In addition, the cap on administrative expenditures by the central office would not provide sufficient funding for federally mandated programs.

For these reasons, I have vetoed this proviso. I am directing the new Department of Community, Trade and Economic Development to ensure that residents of long-term care facilities in Kitsap County have improved access to the ombudsman program using the additional funding provided for that purpose. I am also directing the department, in cooperation with the LTCO program and other interested parties, to prepare a comprehensive evaluation of the program for presentation to the fiscal and human services committees of the legislature in the 1995 session. The evaluation will include a specific analysis of the funding allocation method used by the program, including possible ways to increase the proportion of funding available to the regional offices consistent with existing law.

Section 122(12), page 19, State Environmental Policy Act/Growth Management Act Integration Grants (Department of Community Development)

The proviso arbitrarily requires a minimum of three grants of not less than $300,000 each. The language appears to be intended to ensure that grants made by the Department of Community Development for this purpose be of sufficient scale to achieve meaningful results. I am concerned that the specific dollar amounts are overly restrictive and would unnecessarily limit the prudent management of the funding provided by the legislature. Because the new Department of Community, Trade and Economic Development will seek participation in these projects from private and local sources, the state commitment necessary for any one project could be less than the minimum amount provided in the language. The department should not be limited to a requirement to spend at least $300,000 for each project if it can effectively satisfy project objectives for less.

In keeping with the intent of the language, I have directed the department to support at least three large scale integration projects of at least $300,000 total cost per project including private and local contributions. I have also directed the department to limit its budget for technical assistance to the amount stated in the proviso and to report to the legislature in December of 1994.

Section 123, page 20, Fire Protection Policy Board (Department of Community Development)

Section 123 would reduce the Department of Community Development's appropriation from the Oil Spill Administration Account by $130,000. The magnitude of this budget reduction, which represents 39 percent of the department's funding for oil spill training, would significantly impair oil spill training programs in this state. Therefore, I am vetoing this proviso and directing the new Department of Community, Trade and Economic Development to place $61,000 of the Oil Spill Administration Account into reserve to restore the funding to the level recommended in my supplemental budget proposal.

Section 132(3), page 25, Engrossed Second Substitute Senate Bill No. 5468 (Department of Revenue)

Section 132(3) allocates funds for a Department of Revenue study of firms that have participated in sales tax deferral, business and occupation tax credit, and development loan fund programs. The department would be required to collect information to measure the effect of these programs and to assess whether participants have followed a wide range of federal and state requirements. This study was also mandated by Engrossed Second Substitute Senate Bill No. 5468.

Engrossed Second Substitute Senate Bill No. 5468 would have required the department to examine the compliance of businesses with environmental, health and safety, and employment standards. If compliance with existing standards in these areas is to be reviewed, the Department of Revenue is not the proper agency to conduct the study. I am also concerned that this provision does not ensure adequate protection against disclosure of proprietary business information.

I am vetoing section 132(3) of the supplemental operating budget to be consistent with my veto of section 2 of Engrossed Second Substitute Senate Bill No. 5468. The Department of Revenue is directed to place the funding in reserve status.

I have also asked directors of state agencies with responsibility for environmental protection, employment, economic development, and workplace health and safety, to coordinate in identifying eligibility criteria that the state might establish for participation in assistance programs.

Section 135(9), page 27, State-wide Collocation Efforts (Department of General Administration)

I have vetoed this proviso in order to enable the Department of General Administration to test the findings of collocation and consolidation studies with $75,000 of the new appropriation contained in the capital budget for further collocation effort. The $171,000 of appropriation from the General Administration Facilities and Services Revolving Fund will be placed in reserve and may be allotted to support collocation costs in excess of $75,000 upon presentation of adequate justification as defined by the Office of Financial Management.

Section 145(15), page 34, Associate Development Organizations (Department of Trade and Economic Development)

While I am supportive of the intent of the language in this section to provide continuing support for Associate Development Organizations (ADOs) in distressed and rural areas of the state, I am concerned that the proviso limits the new Department of Community, Trade and Economic Development's flexibility to manage these funds most effectively. In keeping with the spirit of the proviso, I have directed the department to provide full funding to those counties in timber and distressed areas that are most in need and to provide funds to rural and distressed counties that would otherwise be excluded from funding under this language.

Section 204(4) (h), pages 49 and 50, Community Residential Services Efficiencies (Developmental Disabilities, Department of Social and Health Services)

This proviso directs the Department of Social and Health Services to develop and implement a plan for increasing the efficiency of the community residential services programs within the Division of Developmental Disabilities. The plan must specifically

address strategies and timelines for (1) increasing the number of individuals not currently receiving state-funded residential services during 1995-97 by at least 220 adults, and (2) reducing the General-Fund state costs of providing these residential services in 1995-97 by at least $2.9 million.

While I am generally supportive of the intent of this language, which is to reduce the average daily cost of residential services, the specific targets are overly prescriptive, particularly as they relate to the next biennium. I am vetoing the proviso, but I am directing the division to complete its currently planned evaluation of all residential services, including those in the community, the residential habilitation centers, and the state operated living alternatives in time for the 1995 legislative session. This plan will also address potential costs savings related to residential reconfiguration and methods of providing services to those currently unserved.

Section 228(19), page 79, Unemployment Insurance Compensation (Employment Security Department)

Section 228(19) directs the Employment Security Department to use $80,000 of the Unemployment Compensation Administration Fund to study computer technology that could be used to improve various compensation procedures, as specified in Engrossed Senate Bill No. 6480. Since that bill was not approved by the legislature, I am vetoing this section of the supplemental budget bill.

Section 303(8) (b), page 84, Water Rights Permit Processing (Department of Ecology)

The legislature structured the funding for the Water Rights Permitting program so that 50 percent of the program's Fiscal Year 1995 funding would be eliminated if a water rights permit fee bill was not passed in the 1994 legislative session. It was the legislature's expectation that 50 percent of the funding for the Water Rights Permitting program, including data management, would be supported from water rights permit fees. The failure of the legislature to pass the water rights permit fee bill, Engrossed Second Substitute Senate Bill No. 6291, will mean that a significant portion of the department's water rights permit processing activities will be eliminated. Consequently, the ability of the department to administer a vital resource will be greatly impaired. However, there is much in the water resources program that still needs to be done. Among those activities are the continued implementation of the data management program and instream flow determinations.

In addition, section 303(8) (b) contains a technical error which would reduce the department's General Fund-State appropriation for water rights permit administration activities by $654,000, when only $279,000 in new General Fund-State was provided. For these reasons, I am vetoing this section and directing the department to use the $279,000 of new funding to augment other water resource activities not directly related to the processing of water rights permits.

Section 305, page 87, lines 3 and 4, Oil Spill Administration Account Appropriation (State Parks and Recreation Commission)

The legislative budget reduced the State Parks and Recreation Commission's appropriation from the Oil Spill Administration Account by $16,000. The magnitude of the legislative budget reduction will mean that the training provided to park rangers and educational efforts designed to prevent oil spills by small vessels will be curtailed. Therefore, I am vetoing this appropriation.

Section 305(1), page 87, line 23 through line 26, State Parks Fees (State Parks and Recreation Commission)

Section 305(1), page 87, line 23 through line 26, requires the State Parks and Recreation Commission to implement fees that generate at least $3 million of additional revenue for the 1993-95 Biennium. A veto of this requirement will allow the commission to eliminate the day use parking fees scheduled to begin on May 1, 1994. While I feel that such charges may be necessary at some point in the future, user concerns have convinced me that we need more time to evaluate the impact of these fees on public access to state parks.

Section 804 of this act requires the transfer of $22.3 million from the Trust Land Purchase Account, where park fees are deposited, to the state General Fund. My veto of the language in Section 305 will result in an estimated $2.7 million in loss in revenue to the Trust Land Purchase Account, thus reducing the amount available for transfer to the General Fund. I will ask the legislature to address this issue in the 1995 legislative session.

Section 311, page 92, line 31, and Section 311(5), page 93, Warm Water Fish Enhancement (Department of Wildlife)

I am vetoing section 311, page 92, line 31, to remove the appropriation for the Warm Water Fish Account and section 311(5), which provides funding for the implementation for Engrossed Substitute Senate Bill No. 6125, combined recreational hunting and fishing license and warm water fisheries enhancement. While I support the consolidation of the recreational hunting and fishing license documents, I do not support the implementation of an expanded warm water fisheries enhancement program. Engrossed Substitute Senate Bill No. 6125 imposes a $5 surcharge on all who fish for warm water species. My primary concern is that until a general review of the new Department of Fish and Wildlife's program funding needs occurs, I am opposed to imposing yet another earmarked fund and with it a new fisheries program. I vetoed the sections of Engrossed Substitute Senate Bill No. 6125 dealing with the warm water fisheries enhancement program, and therefore, the program's appropriation and proviso contained in section 311 of the supplemental budget bill are no longer required. However, I am directing the new Department of Fish and Wildlife to expend $53,000 from the Wildlife Fund-State appropriation to implement the recreational licensing component of Engrossed Substitute Senate Bill No. 6125.

Section 603, page 127, lines 17 and 18, Oil Spill Administration Account Appropriation (University of Washington)

The legislative budget reduced the appropriation for the University of Washington's (UW) appropriation from the Oil Spill Administration Account by $136,000. A reduction of this magnitude would eliminate funding for the UW's oil spill education programs in Fiscal Year 1995, hampering the state's efforts to inform operators of small commercial vessels and shoreside facilities about ways to prevent oil spills. Therefore, I am vetoing this appropriation and directing the UW to place $89,000 of the Oil Spill Administration Account into reserve. This restores the funding to the level recommended in my supplemental budget proposal.

Section 610(5) (a), page 134, Financial Aid (State Need Grant) Money for Post Secondary Education Resource Centers (Higher Education Coordinating Board)

I am vetoing the proviso contained in section 610(5) (a) permitting the use of $249,000 of current state need-grant funding to help create post-secondary education resource centers. Under this proviso, the legislature directed that these funds be used as matching funds for an equal amount of federal dollars to create these centers. Last year I worked hard to double the amount of state money available for direct grants to low-income, higher education students. I believe it is inappropriate to reduce the number of financial assistance grants made directly to students who are in need in order to set up an information service for other potential applicants. If the legislature wanted to establish this administrative unit, new money should have been provided. This veto will ensure that the original level of grants to needy students is maintained.

With the exception of sections 122(10); 122(12); 123; 132(3); 135(9); 145(15); 204(4) (h); 228(19); 303(8) (b); 305, page 87, lines 3 and 4; 305(1); 311, page 92, line 31; 311(5); 603, page 127, lines 17 and 18; and 610(5) (a), Engrossed Substitute Senate Bill No. 6244 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SB 6254

FULL VETO

Authorizing counties to file claims against escheat property for funeral or burial expenses of indigent persons.

By Senators Fraser, Loveland, M. Rasmussen and Winsley

Senate Committee on Government Operations
House Committee on Local Government

Background: County commissioners are required to provide for the disposition of the remains of indigent persons when the body is unclaimed by relatives or a church organization. The county has no right to recover its costs from property of the decedent which may transfer to the state because no heirs exist.

Summary: The county legislative authority may file a claim against any property of a decedent which reverts to the state for funeral or burial expenses the county is required to incur.

Votes on Final Passage:

Senate	43	0
House	95	1

VETO MESSAGE ON SB 6254

April 2, 1994

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. 6254 entitled:

"AN ACT Relating to funeral or burial expenses of indigent persons;"

This bill allows the county to file a claim for funeral or burial expenses against any escheat property which reverts to the state when the county has paid burial expenses of the decedent.

The bill duplicates current law. Presently a county may file a claim against a deceased person's estate for any burial or funeral expenses it has incurred when family, friends, and/or organizations do not come forward to claim the body. The language in this bill is vague and may be misleading. A county might read this as empowering it to make a claim to the state for payment of the funeral expenses of any indigent person. I am vetoing this bill and directing the Department of Revenue to provide additional information and guidance to county councils and commissioners about how counties may make claims for payment of burial or funeral expenses of persons who die without heirs or a will.

For these reasons, I have vetoed Senate Bill No. 6254 in its entirety.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

E2SSB 6255

C 288 L 94

Changing provisions relating to children removed from the custody of parents.

By Senate Committee on Ways & Means (originally sponsored by Senators Talmadge, Wojahn, Haugen, Winsley and McAuliffe; by request of Attorney General)

Senate Committee on Health & Human Services
Senate Committee on Ways & Means
House Committee on Human Services
House Committee on Appropriations

Background: A dependency petition may be filed for any child who has been abandoned, is abused or neglected, has no parent capable of caring for him or her, or is developmentally disabled and services cannot be provided in the home. If a dependent child is removed from the home, the child's caseworker must prepare a plan for the child to assure that a permanent home is found for the child as soon as possible. This "permanency plan" may include returning the child back to his or her parent, adoption, guardianship, or a long-term placement with a relative or in foster care.

It has been suggested that changes in the law will reduce unnecessary delays in achieving permanency and stability for the child.

Summary: New definitions are provided for the following terms: "current placement episode," "dependency guardian," "guardian," "out-of-home care" and "preventive services." Preventive services are required to be offered or provided and have failed to prevent the need for an out-of-home placement before a child may be removed from the home. An exception is provided if the removal is necessary to protect the child. The department may transfer funds appropriated for foster care services to purchase other preventive services.

A plan shall be developed no later than 60 days after the supervising agency assumes responsibility for providing services, or by the fact-finding hearing, whichever occurs first. The planning continues whenever the child is removed from parental custody until the goal is met or the dependency is dismissed.

The plan's identified outcomes and goals may change with the circumstances. Permanency planning goals should be met within 15 months of out-of-home placement. A hearing is required if the child, age 10 or younger, is out-of-home for at least nine months and held no later than 12 months after placement. For children over age 10, the hearing shall be held no later than 18 months after placement.

The agency having custody of the child shall file the permanency plan with the court and mail copies to the parties and their counsel 10 working days prior to a permanency planning hearing.

At the permanency planning hearing, the court shall determine whether the goal has been met and review the status and plan to assure it remains appropriate. If the court

orders the child returned home, casework supervision shall continue for at least six months for a review hearing and consideration of the need for continued intervention. A permanency plan that does not contemplate the return of the child to the parent does not relieve the supervising agency from its obligation to provide reasonable services intended to effectuate the return of the child.

After the first permanency planning hearing, additional planning hearings shall be held at least every 12 months, until the goal is achieved or the case is dismissed. Status review hearings shall continue to be held every six months, unless a dependency guardian has been appointed.

The agency with custody of the child may file a termination or guardianship petition at any time after a finding of dependency. A fact-finding hearing shall be held unless the agency dismisses the petition, or an agreed order is entered.

Dependency guardians are authorized. A dependency guardian is a person, nonprofit corporation, or tribe appointed for the limited purpose of assisting the court in the supervision of the dependency. In establishing a guardianship, the best interest of the child standard is used instead of the best interest of the family.

The court shall specify the dependency guardian's authority over the estate of the child. The dependency guardian's rights and duties are specified. While the guardianship is in effect, the dependency guardian shall be a party to any dependency proceeding. Any party may request modification or termination of the guardianship order. DSHS may intervene in any guardianship to modify or terminate its provisions.

The court may modify or terminate the guardianship if it finds that, by a preponderance of the evidence, there has been a change of circumstances and the order is in the child's best interest. A hearing is required unless all parties agree.

When terminated, a dependency guardian has no rights or responsibilities for the child and has no legal standing to further participate in dependency proceedings.

The child shall remain dependent when the guardianship is terminated and shall be returned to: the parent; DSHS; a child placing agency; or a home not requiring licensing.

The child shall not be returned to the parent unless the original reason for removal no longer exists and it is in the child's best interest.

Parental preferences may be considered in the appointment of a dependency guardian. The reference to the dependency guardian's rights and duties regarding the child's religious activities is stricken. The dependency guardian's qualifications are modified.

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	96	0	
Senate	46	0	

Effective: June 9, 1994

SSB 6264

C 148 L 94

Authorizing a regional compact for restoring salmon runs.

By Senate Committee on Natural Resources (originally sponsored by Senators Sutherland, Oke and Fraser)

Senate Committee on Natural Resources
House Committee on Fisheries & Wildlife

Background: The Endangered Species Act has been applied to several runs of salmon in the Columbia River. As a result, Idaho, California, Washington and Oregon are considering cooperative policies to ensure that further runs are not found to be endangered.

The Oregon Legislature has passed this compact. It is pending in the California Legislature and will be considered in Idaho in 1995.

Summary: The state of Washington is authorized to enter into an interstate compact with California, Idaho and Oregon to protect and restore coastal ecosystems. The purpose of the compact is to develop programs that prevent the need for listing of any native salmon species under the federal Endangered Species Act.

The Governor may establish cooperative agreements with other states in the compact to coordinate individual efforts in developing state programs that further region-wide goals.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: July 1, 1994

SB 6266

C 289 L 94

Authorizing sewer district commissioners of a merged district to fulfill their terms of office.

By Senators Haugen and Winsley

Senate Committee on Government Operations
House Committee on Local Government

Background: In the following instances, commissioners remain until their respective terms of office expire: con-

solidation of two or more sewer districts; consolidation of two or more water districts; merger of one or more water districts into a sewer district; merger of one or more sewer districts into a water district; and merger of two water districts. The only instance when commissioners cease to hold office before their respective terms expire is upon the merger of two sewer districts.

Summary: The sewer commissioners of merging districts shall hold office as commissioners of the new consolidated sewer district until their respective terms of office expire. Should a vacancy occur, a person shall not be appointed to fill the position.

Votes on Final Passage:

Senate	45	1	
House	96	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: June 9, 1994

2SSB 6276

C 60 L 94

Regulating trademarks.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Winsley, Nelson and M. Rasmussen; by request of Secretary of State)

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Commerce & Labor

Background: A "trademark" means any word, name, symbol or device or any combination thereof which is used by a person to identify goods that he or she makes or sells, and to distinguish them from goods that are made or sold by others.

A person who has adopted and is using a trademark in this state may file an application for registration of the trademark with the Secretary of State. The filing fee for the registration is $50 payable to the Secretary of State. Registration of a trademark is effective for ten years, and may be renewed for successive terms of ten years. The renewal fee is $50 payable to the Secretary of State. The assignment of a trademark must be accompanied by a $50 fee. The fees for registration, renewal, and assignment of trademarks go to the state general fund.

In 1993, the Legislature amended the statute pertaining to the general collection of fees to allow the Secretary of State to establish by rule and collect the fees for filing and recording trademarks. However, the fee provision in another chapter was not similarly revised, so an inconsistency exists between two statutes.

There currently exists a problem with respect to foreign businesses who bring legal actions against Washington businesses because the Washington business is using the same trademark or trade name as the foreign business.

Summary: The Secretary of State must establish by rule fees for the registration, renewal, and assignment of trademarks. Registration of a trademark is effective for six years, and may be renewed for successive terms of six years.

The exclusive right to the use of a trademark may be reserved by 1) a person intending to register a trademark, or 2) a domestic or foreign corporation intending to change its trademark. In order to reserve a trademark, a person must file an application with the Secretary of State. The Secretary of State sets the fees by rule. If the trademark is available for use, the Secretary of State must reserve the trademark for the exclusive use of the applicant for 180 days. The reservation is limited to one filing.

The Secretary of State may establish reasonable fees for certain special services, such as in-person service or expedited service, rendered with respect to trademarks.

Foreign businesses are prevented from receiving damages or equitable relief in any legal proceeding on account of the use of a trademark by a Washington business which is also used by the foreign business outside of the United States.

This prohibition does not apply if: (1) the foreign business used a trademark or trade name within the United States prior to the time the Washington business began to use it; or (2) the trademark or trade name was registered by the United States Patent and Trademark Office or reserved by the Secretary of State to the foreign business at the time the Washington business began to use it.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 9, 1994

SSB 6278

C 290 L 94

Authorizing cities and towns to use their special excise tax for public restroom facilities intended for visitors.

By Senate Committee on Government Operations (originally sponsored by Senators Gaspard, Haugen, Fraser and M. Rasmussen)

Senate Committee on Government Operations
House Committee on Revenue

Background: Cities and counties may levy a 2 percent local option tax on the rental of hotel and motel rooms to pay for tourism promotion and for the costs of acquiring, constructing, maintaining and operating public stadium, convention center, performing arts, and visual arts facilities. Jurisdictions imposing the tax may credit the rate against the state sales tax rate of 6.5 percent.

Cities and counties using the tax for these purposes encounter demands for public restroom facilities. This is the case regardless of the city or town's size. Currently,

though, only cities and towns of populations less than 5,000 may use the hotel/motel tax for the purpose of providing public restroom facilities intended for use by visitors. Counties of any size may use the hotel/motel tax for this purpose.

Pierce County has authority to impose a 2 percent add-on hotel/motel tax.

Summary: Any city bordering on Baker Bay, having a population of at least 800 may use the proceeds of the 2 percent hotel/motel tax to fund special events and promotional infrastructures. Any city with a population less than 50,000 in a county which imposes the add-on hotel/motel tax (Pierce County) may use the proceeds of the 2 percent hotel/motel tax to provide public restrooms for visitors. Any county made up entirely of islands may use the 2 percent hotel/motel tax for the same purpose.

Any county which was using the proceeds of the 2 percent hotel/motel tax to fund public restroom facilities as of March 10, 1994, may continue to do so until December 31, 1995,or until the restrooms are completed, whichever is earlier. This section expires January 1, 1996.

Votes on Final Passage:

Senate	41	6	
House	93	5	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	91	6	
Senate	42	4	

Effective: June 9, 1994

SSB 6282

C 61 L 94

Regulating time limits for industrial safety and health appeals.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Wojahn and Winsley; by request of Department of Labor & Industries)

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

Background: When an employer is cited for a violation of the Washington Industrial Safety and Health Act, the employer has 15 days to notify the director of an intent to appeal either the citation or the assessment of penalty. If an employer notifies the director that the employer intends to appeal the citation or penalty, the director may reassume jurisdiction over the entire matter or any portion involving the issue being appealed. If the director does reassume jurisdiction, any redetermination of the penalty, citation or revision of periods of abatement must be completed within a period of 30 working days. If these matters are not completed, the employer may then proceed directly to the board with the appeal.

A recent judicial determination requires jurisdiction to pass to the board at the end of the 30-day reassumption period even if a settlement has been reached but the necessary paperwork not completed.

Summary: When an employer indicates an intent to appeal a department order under the Washington Industrial Safety and Health Act, the department may reassume jurisdiction. The time limit for this reassumption of jurisdiction is extended from 30 working days to 45 working days, provided all parties to the appeal agree to the extension.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: June 9, 1994

SSB 6283

C 200 L 94

Disclosing real property information.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley, Spanel, Quigley, Drew, Erwin, Fraser and Ludwig)

Senate Committee on Government Operations
House Committee on Local Government

Background: For most individuals, the purchase of a home or condominium is the most significant and largest financial transaction in which they will ever participate. Likewise, most persons will buy only a few homes during their entire life-span and not develop any expertise in guarding against potential problems which may cause serious financial and emotional hardship after the transaction has closed.

In order to assist buyers of residential real property, some real estate agencies have begun requiring sellers to complete disclosure forms in which the seller responds to a check-list of questions about various physical aspects of the property. Such disclosures can be of great assistance to a buyer in evaluating aspects of the property which may not be revealed by their own inspection. Matters such as the location and maintenance of on-site septic systems, structural leaks, history of dry rot or pest damage and similar matters may be critical to a decision to buy.

It is believed that seller's disclosure statements should be required by law.

Summary: Within five days of the signing of an agreement for the purchase and sale of a residential property, the seller must provide to the buyer a real property transfer disclosure statement on a prescribed form. Residential property is defined to include single family dwellings, multiple dwellings with up to four units, residential condominiums, and residential time-share units.

Transfers among family members, by decedent's estates or bankruptcy estates, among common owners, by

lienholders, by sheriff's sale or other foreclosure sale, and transfers of less than a fee-simple interest other than the transfer of a beneficial interest under a real estate contract are exempt from the disclosure requirements.

The prescribed form requires disclosure, based upon the seller's personal knowledge, of matters relating to title, water sources and systems, sewer/septic systems, structural concerns, mechanical systems, community associations, and geographical hazards. Within three days of receipt, or other agreed duration of time, the buyer must either accept the disclosure statement or give written notice of rescission of the agreement for purchase. The right to rescind is at the sole discretion of the buyer. If a disclosure statement is not provided by the seller, the buyer may rescind the agreement to purchase at any time up until the transaction is closed. If the seller determines that the disclosure statement was not complete because of changed circumstances or new information, the seller must provide the buyer with an amended disclosure statement or correct the defects prior to closing. The delivery of an amended disclosure statement will reopen the time in which the buyer can rescind the purchase agreement for an additional three days.

The seller may not be held liable for inaccurate information in the disclosure statement which is based upon information provided by public agencies or other person providing information within the scope of their professional license or expertise such as architects, surveyors or pest inspectors. Licensed real estate salespersons may not be held liable for inaccuracies in the disclosure statement if they had no personal knowledge of the information, or if the information was provided by a public agency or by other persons providing information within the scope of their professional license or expertise.

Violations of this act do not constitute a violation of the Consumer Protection Act. The act does not impair or extinguish any existing rights or remedies or create any new remedies other than the right to rescind within the fixed time limits.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: January 1, 1995

ESB 6284

C 291 L 94

Obtaining a real estate broker's or salesperson's license.

By Senators Wojahn, Amondson, Pelz, Winsley, Haugen, Quigley, Drew, Erwin, Spanel, Fraser and Ludwig

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

Background: Currently, individuals seeking a real estate broker's license must have completed 90 clock hours of instruction in real estate, including specific course work in brokerage management and real estate law, within five years prior to applying for the license.

Individuals seeking a real estate salesperson's license must have completed 30 clock hours of instruction in real estate fundamentals. In addition, licensed salespersons are required to complete an additional 30 clock hours of real estate courses before renewing a license.

The Director of Licensing has the authority to waive the 30-clock hour requirement for certain individuals seeking a new license or seeking to reactivate an inactive license.

Summary: Individuals seeking a real estate broker's license must complete 120 clock hours of instruction in real estate, including specific coursework in brokerage management, real estate law, and business management.

Individuals seeking a real estate salesperson's license must complete a 60-clock hour course in real estate fundamentals. In addition, those seeking their first renewal of a salesperson's license must successfully complete 30 hours of instruction in real estate practices and 30 hours of continuing education courses.

The director is authorized to substitute by rule equivalent educational coursework for the approved broker and salesperson education.

The director's authority to waive the 30-clock hour education requirement for new and inactive licenses is deleted.

Individuals currently holding a salesperson's or broker's license are grandfathered into the new act.

Votes on Final Passage:

Senate	46	0	
House	96	1	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 1, 1995

SB 6285

PARTIAL VETO

C 256 L 94

Regulating financial institutions and securities.

By Senators Moore and Sellar; by request of Department of Financial Institutions

Senate Committee on Labor & Commerce
House Committee on Financial Institutions & Insurance

Background: The 1993 Legislature created the Department of Financial Institutions (DFI). The DFI regulates banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, mortgage brokers, check cashers and sellers, and trust companies and departments. The DFI's Securities Division

regulates securities, business opportunities, franchises, commodities, and other speculative investments.

In October 1993 DFI began a process of identifying unnecessary regulatory burdens in current laws governing financial institutions. DFI's goal was to identify laws placing unwarranted restrictions on the business activities of financial institutions, while assuring that laws addressing public interest were not compromised.

In the process of reviewing current law, DFI sent letters to 200 state chartered financial institutions. These institutions included commercial banks, savings banks, savings and loan associations, and credit unions. In this correspondence, DFI requested each institution submit recommendations for improving current law. DFI also contacted internal examiners and key department personnel for their opinions.

DFI met several times with various groups offering suggestions for change. After many meetings with financial institutions, DFI drafted legislation and submitted it to the industry for comments.

Summary: Numerous modifications are made to laws related to the regulation of securities activities, commercial banks, credit unions, and savings banks.

The boards of directors and managers are given additional discretion in managing and operating financial institutions. Statutory accounting principles for financial institutions are replaced with generally accepted accounting principles.

Commercial banks' powers to engage in activities that the Federal Reserve and Congress deem closely related to banking are updated.

Credit unions are provided with additional flexibility in their ability to offer loans. State chartered credit unions are considered corporations and are subject to the Washington corporation statute.

The director of Financial Institutions may update by rule the authority of savings banks to exercise powers that the federal government grants to federally chartered savings banks. The authority of savings banks to merge with other federal and state chartered financial institutions is clarified.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: June 9, 1994

Partial Veto Summary: The portion of the bill that eliminates the requirement for state chartered banks to publish statements of condition three times a year in a local newspaper is removed.

VETO MESSAGE ON SB 6285

April 1, 1994

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 50, Senate Bill No. 6285 entitled:

"AN ACT Relating to the strengthening and reform of the regulation of financial institutions and securities;"

This is excellent legislation designed to simplify the regulation of financial institutions and securities while maintaining effective regulation to safeguard the state's financial markets. It is another effort by the state to reform the regulatory structure to reduce paperwork and unnecessary costs for the state's businesses while continuing to safeguard the public and the solvency of financial institutions.

Section 50 would eliminate an existing requirement for banks to publish statements of condition three times a year in local newspapers. The section is intended to reduce the costs of such publication for commercial banks. Statements of condition are prepared three times a year and are available from state-chartered banks and from the Department of Financial Institutions.

However, the current statute protects the public right to know the status of state-chartered institutions without requiring the public to go to extra lengths to seek such information. As such, it is a worthwhile requirement and should be maintained. Therefore, I am vetoing section 50 of Senate Bill No. 6285.

With the exception of section 50, Senate Bill No. 6285 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SSB 6298

C 201 L 94

Improving the licensing and enforcement sections of the Washington State Liquor Act.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Moore, Prentice and Newhouse; by request of Liquor Control Board)

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

Background: Under current law, it is illegal for a person to transfer an identification card to another person for the purpose of purchasing alcohol. However, it is not illegal for a person to transfer an identification card to another for the purpose of entering an establishment or portion of an establishment that is off limits to individuals under 21 years of age.

Currently, only Class H restaurants are allowed to acquire a Class I caterer's license. Class A, C, or D licensees including restaurants and hotels who sell beer or wine are not allowed to obtain a Class I caterer's license.

Special occasion licensees are currently allowed to purchase wine or beer to be served at their events from a

wholesaler. They are not allowed to purchase beer and wine from a licensed retailer.

Individuals who make wine at home are allowed to enter their wine in wine exhibits and wine tasting events. However, individuals who brew beer at home are not allowed to enter their beer in beer exhibits or beer tasting events.

Individuals who lie to an owner of a licensed establishment selling alcohol regarding the purchase or consumption of alcohol by an underage person can be charged with a misdemeanor. However, it is not illegal for an individual to lie to the employee of an owner of a licensed establishment or a law enforcement or liquor enforcement officer.

Restaurants licensed to sell beer or wine under a Class A, C, or D license often have a portion of the premises set off as a "taproom" for the consumption of these beverages. Under current law, a minor is not prohibited from entering and remaining on such premises.

Summary: Individuals who transfer an identification card to another person for the purpose of gaining admission to an establishment or portion of an establishment that is off-limits to persons under the age of 21 may be charged with a misdemeanor.

Class A, C, or D licensees selling wine or beer only may obtain a Class I caterer's license.

Special occasion licensees may purchase beer or wine from a licensed beer or wine retailer or a licensed beer or wine wholesaler.

Individuals who brew beer at home may enter their beer in beer exhibits or beer tasting events.

Individuals who lie to an owner of a licensed establishment, an employee of the establishment, a law enforcement or liquor enforcement officer regarding the purchase or consumption of alcohol by an underage person may be charged with a misdemeanor.

The Liquor Control Board may designate licensed premises or portions of licensed premises as off-limits to persons under 21 years of age. It is a misdemeanor to serve or allow to remain in any area classified as off-limits any person under the age of 21 or for any person under the age of 21 years to enter or remain in an area classified as off-limits.

A Class B licensee operating a bowling alley may obtain approval from the Liquor Control Board to sell or serve alcohol in the concourse or lane areas of the bowling alley when such areas are adjacent to the food preparation service facility.

An international export beer and wine license is created. This license will allow retailers holding a Class E or Class F retail liquor license to sell beer or wine to businesses outside the U.S. The beer and wine sold must be purchased from a beer or wine wholesaler licensed in this state. The beer or wine sold must be sold at a price that is no less than the price paid to the wholesaler. The annual cost of the license is $500.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 9, 1994

SSB 6305

C 62 L 94

Revising the process for employment of minors as actors or performers in film, video, or theatrical productions.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Snyder, Skratek, Roach, Nelson, Loveland, West, Winsley and M. Rasmussen)

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

Background: Current law provides that any person who employs a minor under the age of 14 in outside employment not connected with farm or house work without the permission of a superior court judge is guilty of a misdemeanor.

Summary: An exemption from the law restricting the employment of minors under 14 is provided for children employed as actors or performers in film, video, audio, or theatrical productions.

For all minors employed as actors or performers in film, video, audio, or theatrical productions, the Department of Labor and Industries is directed to issue a permit and variance authorizing their employment upon finding that the terms of the employment sufficiently protect the minor's health, safety and welfare.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 9, 1994

SSB 6307

C 309 L 94

Clarifying health care authority powers and duties.

By Senate Committee on Health & Human Services (originally sponsored by Senators Talmadge and Winsley; by request of Health Care Authority)

Senate Committee on Health & Human Services
Senate Committee on Ways & Means

Background: The Health Care Authority (HCA) purchases health insurance for state employees, some school district employees and other public employees. It administers the Basic Health Plan, provides grants to community

and migrant health centers and performs other duties related to the state's purchase of health care.

The HCA Administrator hears appeals and makes final decisions on complaints regarding HCA administrative determinations. The practice is time-consuming for the Administrator and is sometimes criticized as unfair to enrollees.

The Public Employee Benefits Board within HCA may pursue various strategies to contain health care costs, including limiting the state's contribution for employee plans to a percentage of a lowest priced plan. Under current law, if this is done, employee financial contributions must be structured on a sliding fee basis related to employee household income. The HCA does not keep employee household information, and would incur additional costs to begin doing so if this provision becomes operational.

The HCA Administrator must survey and report on the cost and quality of health services provided within the private sector. The HCA has been unable to comply with this requirement because much of the information which must be obtained to complete the survey is proprietary and not available to the HCA.

The HCA may not accept a person for subsidized enrollment in the Basic Health Plan (BHP) if he or she has more comprehensive coverage than offered by BHP at the time of applying.

The BHP may purchase insurance for any resident of the state who wishes to pay 100 percent of the BHP costs, including applicable state administrative costs and "the appropriate premium tax as provided by law." However, a blanket exemption of BHP from all of Title 48 RCW enacted as part of the publicly subsidized portion of that program may exempt unsubsidized coverage purchased by BHP from the 2 percent premium tax required of all insurers. Some are concerned that if unsubsidized BHP purchased insurance plans do not pay the 2 percent premium tax, BHP will have an unfair market advantage in comparison to purely privately offered health insurance plans.

Summary: The date upon which the HCA must begin managed competition with state purchased health care is moved from January 1, 1995, as in current law, to July 1, 1995.

The HCA Administrator may delegate any power or duty vested in him or her, including the authority to make final determinations under the Administrative Procedure Act.

The Administrator's duty to regularly survey and report on private and public insurance offered to employees is removed.

The Administrator's duty to exclude applicants from subsidized enrollment in the BHP if they have more comprehensive health insurance is modified. Under the terms of the act, the time for determining the presence of more comprehensive coverage is changed from the time of application to the time of enrollment in BHP. In addition, they may only be excluded if they voluntarily relinquished more comprehensive coverage.

The exemption of the BHP from Title 48 RCW is modified to clarify that it does not apply to the payment of the 2 percent premium tax by unsubsidized BHP insurance plans.

Votes on Final Passage:

Senate	39	10	
House	53	41	(House amended)
Senate	36	11	(Senate concurred)

Effective: June 9, 1994

ESSB 6339

PARTIAL VETO

C 257 L 94

Facilitating growth management planning and decisions, integration with related environmental laws, and improving procedures for cleanup of hazardous waste sites.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Sheldon, Amondson, Moore, Morton, Snyder, Gaspard, Skratek, Loveland, Quigley, Fraser, Drew, Hargrove, McAuliffe, Franklin, Haugen, Williams, Spanel, M. Rasmussen, Pelz, A. Smith, Wojahn, Winsley and Ludwig)

Senate Committee on Ecology & Parks
House Committee on Environmental Affairs

Background: Executive Order 93-06 created the Governor's Task Force on Regulatory Reform and charged it with making recommendations "for statutory and administrative changes that lead to more reasonable, efficient, cost-effective, and coordinated regulatory actions."

The Task Force made several specific recommendations on integrating the decision and appeal processes under the Growth Management Act (GMA) and the State Environmental Policy Act (SEPA), and providing greater certainty in determining the completeness of project applications and consistency with GMA plans and regulations. It also recommended exempting the procedural requirements of various state and local permits for hazardous waste site cleanup actions subject to state control or oversight.

The Growth Management Act, enacted in 1990 and expanded in 1991, requires most counties and cities in the state to adopt comprehensive land use plans and urban growth areas. All local governments in the state are required to identify and protect six types of "critical areas" as well as mineral, forest and agricultural lands. Appeals from local government planning decisions, adoption of implementing regulations and certain other decisions are appealable to three regional growth planning hearings boards.

The State Environmental Policy Act was enacted in 1971 and requires the preparation of an environmental im-

pact statement upon all local or state proposals or approvals of private actions that may have a significant adverse impact on the environment. Local governments are granted considerable discretion in the procedures at the local level for appeals of SEPA decisions by local officials.

The Model Toxics Control Act (MTCA), adopted by Initiative 97 in 1988, provides for a comprehensive program for the cleanup of unauthorized hazardous waste sites. The act and its implementing rules specify detailed procedures for the study of sites, the design of the cleanup work, and the carrying out of the cleanup. Substantial public participation procedures are required at each stage. The act contains no provisions for the integration with other state and local permit requirements, which some believe have delayed site cleanup and caused public confusion and unnecessary duplication. Under the federal Superfund law no other federal, state or local permits apply to site cleanup. A similar exemption was provided in state law under 1987 legislation, but was repealed by Initiative 97.

Summary: Growth Planning Hearings Boards. The growth planning hearings boards may appoint hearings examiners to carry out board functions as directed by the board, including issuing recommended decisions. A board member or hearings examiner may be disqualified for bias, prejudice, interest or other cause for which a judge may be disqualified. The boards' rules of practice and procedure shall govern the selection of hearings examiners and the functions to be performed by them. It is clarified that all appeals under SEPA relating to GMA plans or development regulations shall be taken before the growth planning hearings boards.

Local Government Development Regulation. Development regulations to implement GMA comprehensive plans shall provide timely and predictable procedures for determining the compliance of complete development permit applications with those regulations. The regulations shall specify the contents of a completed application necessary to determine compliance. A "development permit application" is defined. Cities and counties planning under GMA must provide notice within 20 days to an applicant either that an application received is complete or what is necessary to complete the application.

Local governments may provide that appeals of hearings examiner decisions upon SEPA procedural determinations shall be the final decision at the local government level.

It is clarified that the point at which a local government planning under the GMA may no longer impose impact fees unless a GMA comprehensive plan and capital facilities element has been adopted is the due date for adoption of its plan-implementing development regulations.

Model Toxics Control Act. In addition to other types of enforcement orders and settlements, Ecology is authorized to enter "agreed orders," with which the PLPs agree to comply. Such orders are not a settlement under MTCA, do not provide contribution protection, or provide eligibility for public funding of cleanup.

Cleanups conducted by Ecology or by PLPs acting under a consent decree, order, or agreed order are exempt from the procedural requirements of the following state laws: (1) air pollution; (2) solid waste management; (3) hazardous waste management; (4) hydraulics act; (5) water pollution control; and (6) Shoreline Management Act. The exemption also applies to local government permits or approvals for the remedial action. Ecology is to adopt procedures to ensure compliance with the substantive provisions of such laws, and must consult with the state agencies and local governments charged with implementing the laws. The procedures must provide an opportunity for comments by the public and government agencies. The procedural exemption is not intended to prohibit charging fees related to review of the substantive requirements applied to the cleanup. The exemption does not apply where its application may result in loss of state authority to administer federal environmental laws.

Ecology is to ensure that the procedures for cleanups it conducts or supervises through a consent decree, order, or agreed order are integrated to the maximum extent practicable with those required in complying with the State Environmental Policy Act (SEPA). This integration shall include the public participation procedures required under SEPA and MTCA.

Votes on Final Passage:

Senate	42	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994
July 1, 1994 (Section 5)

Partial Veto Summary: Section 10 contained identical language to a provision in other legislation passed by the 1994 Legislature. The latter legislation contained additional provisions, and section 10 was voted to avoid a double amendment.

VETO MESSAGE ON SB 6339-S

April 1, 1994

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 10, Engrossed Substitute Senate Bill No. 6339 entitled:

"AN ACT Relating to facilitating growth management planning and decisions, integration with related environmental laws, and improving procedures for clean-up of hazardous waste sites;"

This is very valuable legislation introduced as part of the state's efforts at regulatory reform. It increases the authority of Growth Planning Hearings Boards to use hearings examiners and allows the Department of Ecology to enter into agreed orders with potentially liable parties under the Model Toxics Control Act. It allows local governments to continue to impose impact fees to pay for needed public facilities and requires local governments to adopt time limits for development permitting and to notify applicants for permits. The legislation has the effect of making the

regulatory process more flexible for businesses while retaining the state's ability to protect the environment and local decision-making. It also pushes local governments to increase the predictability of local permitting while retaining local flexibility over how to meet these requirements.

Section 10 of the legislation amends RCW 70.105D.020 of the Model Toxics Control Act which is also amended in section 2 of Engrossed Substitute Senate Bill No. 6123. While both sections include identical definitions of the term "agreed order," the amendment in Engrossed Substitute Senate Bill No. 6123 contains additional new language. To avoid a double amendment of this statute, I am vetoing section 10 of Engrossed Substitute Senate Bill No. 6339.

With the exception of section 10, Engrossed Substitute Senate Bill No. 6339 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

SB 6345

C 5 L 94

Expediting the merger of the departments of community development and trade and economic development.

By Senators Skratek, Sellar, Haugen, Franklin, Bluechel, Deccio, Winsley, Moyer, Sheldon, Moore, Drew, Spanel, McAuliffe, McDonald, A. Smith, Oke and Snyder; by request of Governor Lowry

Senate Committee on Trade, Technology & Economic Development
House Committee on State Government

Background: The new Department of Community, Trade, and Economic Development (CTED) merges and eliminates the Departments of Trade and Economic Development (DTED) and Community Development (DCD). This merger is scheduled to be completed on July 1, 1994.

Summary: The date for completion of the merger is moved up to March 1, 1994.

Votes on Final Passage:

Senate	46	1
House	87	0

Effective: March 2, 1994

SB 6346

C 6 L 94

Expediting the merger of the departments of fisheries and wildlife.

By Senators Owen, Oke, Spanel, Drew, Sheldon, Deccio, Winsley, Skratek, Moore, Haugen, Hargrove, Franklin, McAuliffe, A. Smith, Sellar, McDonald, Moyer and Snyder; by request of Governor Lowry

Senate Committee on Natural Resources
House Committee on State Government

Background: The merger of the Department of Fisheries and the Department of Wildlife into the Department of Fish and Wildlife is effective July 1, 1994. The Governor believes that the merger process is proceeding ahead of schedule and that the merger should be effective March 1, 1994.

Summary: The Department of Fisheries and the Department of Wildlife are merged into the Department of Fish and Wildlife effective March 1, 1994.

Votes on Final Passage:

Senate	47	0
House	86	0

Effective: March 2, 1994

E2SSB 6347

C 5 L 94 E1

Providing tax credits and deferrals for high-technology businesses.

By Senate Committee on Ways & Means (originally sponsored by Senators Skratek, Sellar, Gaspard, Owen, Bluechel, Pelz, Winsley, McAuliffe, Quigley, Ludwig, A. Smith, Deccio, Moyer and M. Rasmussen; by request of Governor Lowry)

Senate Committee on Trade, Technology & Economic Development
Senate Committee on Ways & Means
House Committee on Revenue

Background: The state of Washington has two sales and use tax deferral programs and one business and occupation tax credit program.

The distressed area tax deferral program was enacted in 1985 and defers sales and use taxes on construction costs and the acquisition of machinery and equipment in distressed areas. The deferrals extend from the beginning of a project until three years after its completion. Businesses engaging in manufacturing or research and development activities in distressed areas are eligible for a B&O tax credit for each year in which they have a 15 percent growth in employees.

The statewide tax deferral program for manufacturing and research and development projects also extends the sales and use tax deferrals until three years after a project's completion. Only new projects are eligible for the statewide deferral program.

Summary: Firms that are engaged in biotechnology, advanced computing, electronic device technology, advanced material, and environmental technology pursuits may be eligible for a B&O tax credit and a sales and use tax deferral. Such high-tech firms investing at least 92/100 of 1 percent of their gross income in research and development

are eligible for a tax credit equal to 2 1/2 percent of their investment in research and development. Credits for eligible nonprofits would equal 515/1000 of 1 percent. A person entitled to a tax credit may assign all or a part of it to contractors performing the research and development.

High-tech firms initiating new operations, or expanding, renovating or equipping existing facilities, for research and development or pilot manufacturing purposes are eligible for deferral of sales and use taxes due for up to three years after project completion. Biotechnology companies may defer taxes for up to five years after project completion.

The department is to perform assessments on the tax credit and deferral programs and report to the Governor and the Legislature.

The B&O tax credits and the sales and use tax deferrals for high-tech firms end in 2004.

Exploration of new uses of existing drugs qualifies as research and development.

Votes on Final Passage:

Senate	38	10	
House	83	5	(House amended)
First Special Session			
Senate	34	11	
House	78	15	

Effective: January 1, 1995

ESB 6356

C 202 L 94

Providing an exception to the requirement that cigarette machines be located fully within premises from which minors are prohibited.

By Senator Quigley

Senate Committee on Health & Human Services
House Committee on Health Care

Background: The 1993 Legislature regulated the sale of tobacco products through the use of vending machines. Tobacco vending machines are prohibited unless they are located in premises from which minors are prohibited, or in industrial work sites where minors are not employed. In either case, the vending machine cannot be located within ten feet from an entrance or exit of the premise.

It has been suggested that the ten foot rule has created a hardship on some businesses.

Summary: The Liquor Control Board shall adopt rules that allow a tobacco vending machine to be located within ten feet of an entrance or exit.

Votes on Final Passage:

Senate	44	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994

SB 6367

C 63 L 94

Regulating microbreweries.

By Senators Moore and Newhouse

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

Background: Currently, wine manufacturers are allowed to advertise, pour, or dispense their wine at wine tasting or judging events but beer manufacturers are not.

Special occasion licensees are currently allowed to purchase beer or wine from a wholesaler to be served at their events. They are not allowed to purchase beer or wine from a licensed retailer.

Summary: Beer manufacturers are allowed to advertise, pour or dispense their beer at beer tasting or judging events.

Special occasion licensees may purchase beer or wine from a licensed beer or wine retailer or a licensed beer or wine wholesaler.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 9, 1994

SSB 6371

C 38 L 94

Changing provisions relating to higher education degree-granting authority.

By Senate Committee on Higher Education (originally sponsored by Senators Bauer, Prince, Sheldon, Winsley and Drew)

Senate Committee on Higher Education
House Committee on Higher Education

Background: The Workforce Training and Education Coordinating Board (WTECB) adopts and monitors the rules that enforce the Private Vocational School Act, including the administration of the tuition recovery fund established in 1987. The cost of administering the fund is paid from special fees collected and deposited in the tuition recovery fund.

Money in the tuition recovery fund can be used to refund money if a private vocational school closes. The fund may also be used to pay restitution to a student if a school is found by the board to have engaged in an unfair business practice.

The 1993 Legislature established that by June 30, 1998, a minimum operating balance of $1 million will be achieved in the tuition recovery trust fund and maintained thereafter. Each licensed school will make up to 20 incremental payments.

Currently the tuition recovery trust fund benefits only the non-degree seeking students enrolled in the private vocational schools.

Summary: A new account in the tuition recovery trust fund is created to ensure consistent financial protection for both degree and non-degree seeking students attending private vocational schools. Currently the fund covers only students in non-degree programs. The requirement for degree-granting private vocational schools to participate in two distinctly different protection programs is eliminated.

The interagency agreement between the Workforce Training and Education Coordinating Board and the Higher Education Coordinating Board (HECB) is clarified. The HECB will adopt rules to maintain and administer the new account in the tuition recovery trust fund.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 9, 1994

SB 6377

C 203 L 94

Compensating insurance brokers.

By Senator Moore

Senate Committee on Labor & Commerce
House Committee on Financial Institutions & Insurance

Background: Present law does not state that an insurance agent licensed as a broker can receive both commissions from the insurer and fees paid by the insured.

Summary: Insurance agents licensed as brokers may receive commissions paid by the insurer, fees paid by the insured, or a combination of the two. Application of the bill is limited to property and casualty insurance. The fees may be charged unless the agreement provides to the contrary. Proper disclosures must be made.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 9, 1994

ESB 6404

C 39 L 94

Excluding medical assistance administration reimbursement fees and schedules from the administrative procedure act.

By Senators Wojahn, McAuliffe and Moyer; by request of Department of Social and Health Services

Senate Committee on Health & Human Services
House Committee on Health Care

Background: Fee schedules set by the Department of Social and Health Services Medical Assistance Administration (MAA) are established according to legislatively-approved budget provisions. There is little discretion in setting payment rates since these activities are primarily arithmetic rather than discretionary in nature.

A recent superior court decision ruled that the adoption of rate schedules by the MAA is "rulemaking" and must comply with the Administrative Procedure Act. This decision, if applied to present practice, would delay MAA's ability to change payment rates for providers.

Summary: Calculation of payment rates for services and items purchased as public assistance for medical care is explicitly exempt from the state Administrative Procedure Act.

Votes on Final Passage:

Senate	45	0
House	96	0

Effective: June 9, 1994

SB 6408

C 204 L 94

Including tribal authorities in mental health systems.

By Senators Spanel, Owen, Prentice, Sheldon, Fraser and Hargrove

Senate Committee on Health & Human Services
House Committee on Human Services

Background: Under current law, a county or a group of counties whose population is greater than 40,000 persons may enter a joint operating agreement to form a regional support network (RSN) to plan, organize and deliver mental health services according to a contract with the state Department of Social and Health Services.

Under current law, no statutory requirement exists for a tribal authority to be party to such a joint operating agreement.

Summary: The term "tribal authority" is defined as a federally recognized Indian tribe or a major Indian organization recognized by the Secretary of Social and Health Services.

Upon request, a tribal authority must be included as a party to a joint operating agreement to establish a regional support network. The joint operating agreement must include a determination of tribal authority membership on the governing board and advisory boards and must include provision for culturally competent services to the tribes served.

Votes on Final Passage:

Senate	42	0	
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 9, 1994

E2SSB 6426

C 40 L 94

Providing public electronic access to government information.

By Senate Committee on Ways & Means (originally sponsored by Senators Sutherland, Ludwig, Talmadge, Quigley, Vognild, Williams, Owen, McCaslin, Amondson, Hochstatter, West, Erwin, Bauer, Pelz, A. Smith, Hargrove, Skratek and Oke)

Senate Committee on Government Operations
Senate Committee on Ways & Means
House Committee on State Government
House Committee on Appropriations

Background: Broad public acceptance of computers and computer-related technology can provide increased citizen participation in government by giving citizens electronic access to publicly available government documents.

Summary: The Public Disclosure Commission shall design a program for public electronic access to public legislative documents by January 1, 1995.

The public information access policy task force is created. It is composed of representatives from various state agencies, commissions, local governments and representatives of the general public, the state House and Senate and optionally, the state judicial branch.

The task force is to identify specific means of encouraging and establishing widespread, public, electronic access to the public records held by state and local government. Its study does not include providing the type of services beyond such access that would be provided by a vendor for commercial purposes, such as through a geographic information system.

The task force must report to the Legislature and the Governor its initial recommendations by December 1, 1994, and its final recommendations by December 1, 1995. The task force shall cease to exist on June 30, 1996.

Votes on Final Passage:

Senate	42	3	
House	97	0	(House amended)
Senate	46	1	(Senate concurred)

Effective: March 21, 1994

SSB 6428

C 292 L 94

Changing provisions relating to water systems.

By Senate Committee on Energy & Utilities (originally sponsored by Senators M. Rasmussen, Newhouse, Fraser, Gaspard and Winsley)

Senate Committee on Energy & Utilities
House Committee on Local Government

Background: There are over 12,000 public water systems in the state of Washington. Nearly 80 percent are systems with fewer than 100 connections. Almost all are investor-owned, cooperatives, mutual companies, or homeowner association-operated.

There has been an increasing failure by these small systems to comply with legal requirements to deliver water of adequate quantity and quality. It is widely accepted by professionals in the drinking water field that small systems commonly have problems with design, financing, operation and management. Often these problems are directly related to the limited capital available from the small rate base, and because privately-operated systems do not have access to funding sources of publicly-operated systems.

The burdens on small systems have increased as a result of new testing and treatment requirements under federal law. On occasions in the past, owners or operators of small systems have refused to meet their legal obligations, or have abandoned the systems entirely, which has created a potential threat to the health of their customers. By law, if no person steps forward to take over a failed water system, the county is appointed as the receiver of that system. Most counties do not operate water systems, so receiving and operating the small, failed systems can become a burden to a county. Solutions to these problems, among which are the creation of new water districts and the takeover of failing systems by larger, well-operated systems, are sometimes complicated by legal barriers.

Summary: Ballot measures for the creation of a water district are not to appear on September or November ballots and the requirement for a 60 percent majority approval vote is eliminated.

The date for the establishment of the boundaries of a newly-created water district is changed from March 1 to June 15 of the year in which any water district levy is approved.

Cities, counties, water districts, water companies, public utility districts and irrigation districts which acquire a water system are granted immunity from liability for lawsuits based on noncompliance with federal or state requirements that pre-date the assumption of responsibility for the water system. This immunity is only granted if the entity assuming the water system has submitted and is complying with a plan and schedule of improvements approved by the Department of Health. The immunity will expire when the plan of improvements is completed or four years from the date of assuming responsibility, whichever occurs first. The immunity does not cover intentional injuries, fraud or bad faith.

Provisions regarding the appointment of a receiver are modified to: (1) require the development of a plan for the disposition of the failing system within 12 months of the appointment of a receiver; (2) preclude the return of the system to the owner without Department of Health approval, and to permit the imposition of conditions if the system is returned to the owner; and (3) authorize the court to oversee the appraisal of a system to assure that the value

reflects the necessity to make improvements, and grants the court the authority to approve the appraisal and determine the proper value of the system.

Votes on Final Passage:

Senate	45	1	
House	95	0	(House amended)
Senate			(Senate concurred in part; refused to concur in part)
House	89	0	(House receded)
Senate	41	0	

Effective: June 9, 1994

SB 6438

C 205 L 94

Allowing four-year institutions of higher education to accept students in the running start program.

By Senators Bauer, Hochstatter, Deccio, Sutherland, Drew, McAuliffe, Oke and Winsley

Senate Committee on Higher Education
House Committee on Education

Background: The Running Start program provides an opportunity for qualified eleventh and twelfth grade high school students to enroll in community and technical colleges to satisfy high school graduation requirements as well as earn college credit. In 1990 the Legislature authorized the State Board for Community and Technical Colleges (SBCTC) to operate Running Start programs at five pilot sites. All community and technical colleges were required to offer Running Start beginning fall of 1992.

During 1992-93, the first year of statewide implementation, approximately 3,500 annual unduplicated high school students enrolled in Washington community and technical colleges under the program. 1993 fall quarter enrollments show 3,986 head count enrollment, producing approximately 2,614 full-time equivalent students. The average Running Start student, as measured by grade point average, continues to perform at least as well as the average entering community or technical college students.

The 1993 Legislature approved joint recommendations from the Running Start Task Force, the Office of the Superintendent of Public Instruction and the SBCTC which include a standard statewide reimbursement rate for all Running Start students and an increase in overhead from 5 to 7 percent to be retained by the sending high school. The increase in overhead is intended to be used to improve counseling services at the high school for program participants.

The State Board of Education recently changed the method by which college credit is applied to high school graduation requirements. The new rule states five quarter hours or three semester hours of college or university work equals .75 of a high school credit. Under the new rule, effective fall quarter of 1994, a Running Start student who attends college full-time will earn 6.75 high school credits annually, compared with 6.0 credits earned by regularly enrolled high school students.

Not all high school students in Washington have access to a community or technical college, yet would like access to the Running Start program.

Summary: Central Washington University, Eastern Washington University, and Washington State University may participate in the Running Start program. Students may enroll in participating universities only if their school district's board of directors has chosen to participate. The participating universities, in consultation with school districts, may establish admissions standards for these students.

Votes on Final Passage:

Senate	49	0	
House	93	2	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Conference Committee			
House	91	4	
Senate	44	1	

Effective: June 9, 1994

SSB 6447

C 293 L 94

Adopting a formula for transmitting funds for transfer students.

By Senate Committee on Education (originally sponsored by Senator Prince)

Senate Committee on Education
House Committee on Education

Background: In 1990, legislation was enacted to increase students' and parents' options in choosing what school district students attended. Under this "choice program," procedures were established when resident school districts were required to release students, and nonresident school districts were required to adopt policies about accepting out-of-district students. According to a December 1993 report from the Superintendent of Public Instruction, 1.5 percent of the student population, or 14,000 students, chose to attend schools in districts in which they did not live.

In 1993, legislation was enacted prohibiting the charge of transfer fees or tuition.

Summary: School districts may refuse admission to nonresident students if admitting the students would be a financial hardship to the district.

The House and Senate Education Committees are directed to study issues associated with transfer fees and report their findings to the Legislature by December 31, 1994.

Votes on Final Passage:

Senate	45	0	
House	96	0	(House amended)
Senate	41	5	(Senate concurred)

Effective: June 9, 1994

ESSB 6461

C 52 L 94

Concerning claims for oil spill liability damages.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser and Bluechel)

Senate Committee on Ecology & Parks
House Committee on Environmental Affairs

Background: In 1990 the Washington State Maritime Commission was created to establish an oil spill "first response" system that would provide a method to pay for the first 24 hours of response following an oil spill. The commission is composed of nine Governor-appointed members, of which seven represent various specified maritime industry segments. In addition, there are four additional ex-officio members.

To establish the system, the commission was empowered to enter contracts with cleanup contractors. To pay for the system, it was authorized to assess vessels transiting state waters, and to recover costs of cleanup response from the responsible vessel owners. The assessments levied by the commission must be deposited to a reserve fund, and the assessments levied until the fund reaches $1.5 million. When the fund declines to $1 million, the assessments are reinstated.

The obligations of the commission and any liabilities or claims against it may be enforced only against the assets of the commission, and may not be asserted against the state of Washington, or any member or employee of the commission in his or her individual capacity.

Summary: The protection of individuals from claims asserted against the commission is amended to include incident commanders.

The commission may include an indemnification provision in its contracts regarding losses arising from performance of the contractor or resulting from the fault of the commission. The indemnification shall be limited to the assets of the commission.

The Attorney General shall serve as the legal adviser to the commission.

The tonnage of an oil tanker for purposes of applying state standards for transiting in Puget Sound is determined by the tanker's assigned tonnage at the time of construction or reconstruction as reported in Lloyd's Register of Ships.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: June 9, 1994

SSB 6463

C 46 L 94

Revising department of agriculture administrative duties.

By Senate Committee on Agriculture (originally sponsored by Senator M. Rasmussen; by request of Department of Agriculture)

Senate Committee on Agriculture
Senate Committee on Ways & Means
House Committee on Revenue

Background: A source of funds is needed to retain a toxicologist in the Department of Agriculture to examine requests for registering labels of pesticides for special local needs.

Grain inspection fees can no longer be used to fund audits of grain warehouses. An alternative source of funding is sought for conducting audits of grain warehouses.

In 1993, the Legislature increased the statutory lids on fees that could be assessed to fund the livestock identification program by about 50 percent. The Department of Agriculture did not immediately revise the fee schedule. Initiative 601 requires increases in fees that exceed the fiscal growth factor be first approved by the Legislature.

Summary: A fee of $200 is established on requests or renewals of registration of pesticide labels for special local needs.

The license fee for terminal warehouses is increased from $400 to $1200. The license fee for subterminal warehouses is increased from $300 to $900. The license fee for country warehouses is increased from $100 to $350.

Revenue from grain warehouse license fees is to be deposited in the grain warehouse audit account and used to support the grain warehouse audit program.

The Department of Agriculture's duty to promote and protect agriculture shall not be construed as to diminish its regulatory responsibility to protect the public health and welfare.

Milk samples from dairy farms may be examined in laboratories approved by the director.

The brand identification program fees enacted in 1993 are reenacted to comply with provisions of Initiative 601. The level of the fees is reduced on July 1, 1997, and a task force is assigned to work during the upcoming interim to make recommendations to improve the efficiency of the program and address adjustments to the fee schedule.

Votes on Final Passage:

Senate	28	19
House	71	25

Effective: March 21, 1994 (Sections 1-20, 26, 27)
July 1, 1997 (Sections 21-25)

SSB 6466

C 258 L 94

Streamlining the environmental permit processes for the department of transportation.

By Senate Committee on Transportation (originally sponsored by Senators Prentice, Nelson, Vognild, Hochstatter, Drew, Loveland, Sheldon, Schow, Williams, Erwin and Winsley)

Senate Committee on Transportation
House Committee on Transportation

Background: A number of planning and programming efforts are required to complete a transportation project. The Washington State Department of Transportation (WSDOT) develops a 20-year transportation plan which lays the foundation for the specific projects approved within a given biennial period.

The WSDOT is comprised of six regional transportation districts and a headquarters office. Projects proposed for consideration within the biennial period are first "scoped" by the transportation districts. The districts are responsible for assessing the transportation problems within their respective jurisdictions and submitting candidate projects to the headquarters office, where all projects are then prioritized under RCW 47.05. The criteria used for prioritizing projects are developed internally by WSDOT subject to approval by the Transportation Commission.

Once the projects have been prioritized and approved by the Transportation Commission, they are submitted to the Legislature for appropriation.

Currently, no formal environmental process links the planning, scoping, design, and construction stages of project development.

Summary: Internal WSDOT processes shall incorporate environmental considerations throughout the entire construction process, beginning with the earliest planning stages and extending through final construction.

The department, in cooperation with environmental regulatory authorities, shall identify and document environmental resources in the development of the statewide multimodal plan. The environmental regulatory authorities shall be given an opportunity to review the department's environmental plans.

Any changes to the criteria used for prioritizing projects shall be subject to public comment prior to final adoption by the Transportation Commission.

The department, in cooperation with environmental regulatory authorities, shall identify potential environmental impacts, mitigation, and costs during the project identification and selection phase (scoping), to be incorporated into the project prospectus. The project prospectus is to be submitted to the relevant environmental regulatory authorities. The department shall maintain a record of comments, and proposed revisions received from the reviewing regulatory authorities.

The department, in cooperation with the relevant environmental regulatory authorities, shall develop a uniform methodology for submitting plans and specifications to the environmental regulatory authorities which detail those project elements that impact environmental resources, and propose mitigation measures.

Local government coordination of permit approvals for major transportation projects crossing more than one city or county boundary is required. By December 31, 1994, affected cities and counties shall designate a permit coordinating agency to facilitate multi-jurisdictional review and approval of such transportation projects.

Votes on Final Passage:

Senate	46	0	
House	90	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994

SSB 6481

C 41 L 94

Requiring approval by an institution of higher education's governing board and services and activities fees committee before shifting budgeted services and activities fees.

By Senate Committee on Higher Education (originally sponsored by Senators Bauer, Prince, West, Sellar, Morton, Drew, Rinehart, A. Smith and Sheldon)

Senate Committee on Higher Education
House Committee on Higher Education

Background: Services and activities fees are statutorily defined to mean fees which are charged to all students and are used to fund student activities and programs. These fees are also dedicated to repaying bonds and other indebtedness for facilities such as dormitories, hospitals, dining halls, parking facilities, and student, faculty and employee housing.

By law, the governing boards of the state institutions of higher education have the final authority for adopting a services and activities fees budget. The governing boards also have the responsibility to charge and collect the fees from each student, and within limits set by law, to establish the level of the services and activities fees at their respective institutions.

In 1990, legislation was enacted which strengthened the role of students in recommending and negotiating the budget for services and activities fees at the respective institutions. This legislation gave the Services and Activities Fee (S&A) Committee, which has a mandated student majority, the ability to propose program priorities and budget levels directly to the governing board, rather than through the college administration. The governing board is directed to give priority consideration to student desires in

budget areas that do not impact the stability of programs affecting students, pre-existing contractual obligations, or bond covenants.

Summary: The services and activities fee process is changed so that both the governing board and the S&A Fee Committee must give express approval to any shifting of S&A fee moneys once the budget for those moneys has been established.

Votes on Final Passage:

Senate	47	0
House	95	1

Effective: June 9, 1994

ESSB 6484

C 42 L 94

Regulating confidentiality claims in court settlements involving public hazards.

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson; by request of Govemor Lowry)

Senate Committee on Law & Justice
House Committee on Judiciary

Background: Last year legislation was enacted to inform the public of the existence of public hazards. The statute states information regarding public hazards cannot be sealed by court orders nor concealed by private contract or agreement. Public hazards are products or instrumentalities which pose a danger of damage or injury to the public.

The business community has expressed concern the specific language is too broad and could be interpreted to require the unnecessary disclosure of trade secrets, confidential research, and proprietary, commercial or financial information.

Summary: Current law concerning concealing information about public hazards is repealed and replaced.

A "product liability/hazardous substance claim" means a claim for damages for personal injury, wrongful death, or property damage caused by a product or hazardous or toxic substance that presents a risk of similar injury to other members of the public. A "confidentiality provision" means any terms in a court order or a private agreement terminating a product liability/hazardous substance claim that limit possession or disclosure of information about an alleged hazard to the public.

Confidentiality agreements may be entered, ordered or enforced by a court only if the court finds that such an agreement is in the public interest. In determining public interest, the court is to balance the right of the public to information regarding the risk against the right of the public to protect the confidentiality of the information.

If a third party challenges confidentiality provisions in orders or agreements, the court may award to the prevailing party actual damages, costs, and reasonable attorneys' fees, and may impose other terms.

The act applies to confidentiality provisions entered on or after May 1, 1994.

Votes on Final Passage:

Senate	32	16	
House	94	2	(House amended)
Senate	47	0	(Senate concurred)

Effective: May 1, 1994

SSB 6487

C 64 L 94

Exempting espresso machines from boiler regulations.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Moore, Winsley and McAuliffe)

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

Background: Espresso coffee machines used in commercial coffee shops contain small boilers that have been determined to be subject to regulation and inspection by the state and some local jurisdictions.

There is concern that such regulation will serve little public benefit while imposing a substantial burden on small businesses, and not be the best use of limited government resources.

Summary: All electric boilers having a tank volume of not more than one and one-half cubic feet, with a maximum working pressure of 80 pounds per square inch or less, and meeting certain national or international standards are exempt from state boiler regulations.

Local jurisdictions are prohibited from regulating boilers exempt from state law by this act.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 9, 1994

SB 6491

C 44 L 94

Clarifying authority of regional transit authorities.

By Senators Vognild and Nelson

Senate Committee on Transportation
House Committee on Transportation

Background: The King, Pierce and Snohomish County Councils voted in 1993 to establish the Central Puget Sound Regional Transit Authority (RTA). The RTA is vested with high capacity transportation system development in the three county area, including the imposition of

voter-approved taxes for development and operation of such transportation systems.

The RTA is now reviewing the Regional Transit Plan, developed by the Joint Regional Policy Committee, which consisted of local elected officials serving on the transit boards within the area. The plan formed the basis for each county's decision to tentatively join the RTA. However, each county can reverse its decision to participate, based on the system plan adopted by the RTA. Major changes in the plan require approval of two-thirds of board members.

State law requires that when the system plan is developed, it, along with taxes to fund such a plan, must have voter approval. It is not clear whether the RTA can propose to the voters an incremental plan, with subsequent votes on additional plan elements and additional taxes. The RTA is currently assessing a plan which provides an incremental approach to system development.

Summary: The Regional Transit Authority is specifically authorized to place before the voters the implementation of appropriate phases of a regional high capacity transportation system plan, with subsequent votes on additional phases. The authority must adopt a plan prior to a public vote; however, the requirement that voters approve the entire plan is deleted. The authority must identify projects to be funded by each ballot proposition.

Language is clarified that counties may opt not to participate in the authority prior to the first ballot proposition for implementation of the first phase of the plan.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 9, 1994

SSB 6492

C 206 L 94

Regulating agricultural associations.

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen and Newhouse)

Senate Committee on Agriculture
House Committee on Agriculture & Rural Development

Background: Dissenter right provisions that apply to corporations also apply to cooperatively-owned associations. In 1991, changes were made to the dissenters rights law that require dissenters to be notified of a proposed merger or sale of the corporation or cooperative and of dissenters' option to receive payment for their ownership interest within 30 days.

Concern exists about the inability to plan mergers or sales of agricultural cooperative associations due to lack of predictability of the value of equity interests of dissenting shareholders that would have to be paid in a relatively short time.

Summary: Instead of making payment to dissenters on the sale or merger of a cooperative association, the agricultural cooperative association may make the payment of the member's equity interest over the same time schedule that would have applied if membership in the association had been terminated.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 9, 1994

ESB 6493

C 207 L 94

Integrating the state energy strategy into statute.

By Senators Sutherland, Amondson and Ludwig

Senate Committee on Energy & Utilities
House Committee on Energy & Utilities

Background: In 1991, legislation was enacted which established the Washington Energy Strategy Committee, a broadly representative committee of public and private entities which was directed to develop a state energy strategy. In January 1993 this committee adopted, as its final report, the Washington Energy Strategy, An Invitation to Action. This document set forth principles and policy recommendations to increase energy efficiency, improve environmental quality, and assure adequate, cost-effective energy supplies for the state. The strategy was not developed to be a prescriptive document, but is intended to be a general guide for state and local governments, utilities and the public.

In January 1994 the Governor implemented the Washington State Energy Strategy and directed it to be the policy framework for energy decisions made by state agencies. The Governor directed that the Washington State Energy Office be the lead agency for this implementation, and that an interagency working group be created to review the recommendations of the energy strategy and pursue implementation of the most promising policy alternatives.

Summary: It is the policy of the state of Washington that the state energy strategy shall provide primary guidance for implementation of the state's energy policy.

The State Energy Office shall cooperate with state agencies, governmental units, and private interests in the prioritization and implementation of elements of the state energy strategy. The State Energy Office is the state agency responsible for coordinating the implementation of the energy strategy. The office will report to the Governor and appropriate legislative committees by December 1 of each even-numbered year on the implementation of the strategy.

The State Energy Office is directed to review the strategy periodically with the guidance of a temporary advisory committee. Any recommendations for revisions to the strategy will be conveyed in a written report to the Governor and appropriate legislative committees.

Votes on Final Passage:

Senate	38	8	
House	95	0	(House amended)
Senate	39	7	(Senate concurred)

Effective: June 9, 1994

SSB 6505

C 45 L 94

Providing for public facility transit security.

By Senate Committee on Transportation (originally sponsored by Senators M. Rasmussen, Prince, Vognild, Sellar, Winsley and Drew)

Senate Committee on Transportation
House Committee on Transportation

Background: Currently there are no statutes that permit the issuance of an injunction or restraining order against a person who repeatedly obstructs the operation of transit vehicles.

Counties, cities, towns and other municipalities have no express statutory authority to restrict persons from carrying firearms on transit vehicles, in transit stations, or on transit property, although some transit agencies have rules and regulations restricting firearms.

Summary: It is a public nuisance to obstruct or impede the operation of municipal transit vehicles, or to obstruct or impede access to municipal transit stations. An action may be brought by the transit agency to enjoin the person creating the nuisance from continuing such behavior. Persons who obstruct, impede or interfere with the operation of transit vehicles are guilty of unlawful bus conduct, which is a misdemeanor.

A "municipal transit station" means all facilities, structures, lands, interest in lands, air rights over lands, and rights-of-way of all kinds that are owned, leased, held or used by cities, towns, counties and any other municipalities for the purpose of providing public transit, including park and ride lots, transit centers and tunnels, and bus shelters.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 9, 1994

SSB 6509

C 149 L 94

Acting in the case of impaired insurers.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Moore, Amondson and Prentice; by request of Insurance Commissioner)

Senate Committee on Labor & Commerce
House Committee on Financial Institutions & Insurance

Background: In 1971, the Washington Life and Disability Insurance Guaranty Association (WLDIGA) was created to ensure the performance of contractual obligations by life and disability insurers that became insolvent. Every life and disability insurer authorized to transact business in this state is required to be a member of the association.

When a life or disability insurer is liquidated, the association assesses the other member insurers to pay claims of the liquidated company. The assessments are based upon the proportion of premiums each member has received from business in this state. The actual trigger date upon which the association assumes or guarantees the performance of contractual obligations is the date that an order of liquidation is entered against the insolvent insurer. The WLDIGA may not assume or guarantee any policies or contracts prior to this order.

In addition to the mandatory trigger date, approximately 45 states authorize a voluntary trigger date upon which their guaranty associations may be activated. Interest has been expressed in allowing the guaranty association to assume or guarantee obligations earlier if needed.

Summary: The Washington Life and Disability Insurance Guaranty Association may assume or guarantee performance of contractual obligations when the court orders receivership or conservatorship, or when the insurer becomes insolvent.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 9, 1994

SB 6516

C 7 L 94

Creating the Warren Featherstone Reid award for excellence in health care.

By Senators West, Talmadge, Moyer, Snyder and Anderson

Senate Committee on Health & Human Services
House Committee on Health Care

Background: The debate over how to organize, finance and deliver personal health services has raged in Washington State and at the national level since Franklin Delano

Roosevelt first suggested a national health plan as part of the New Deal in the 1930s. During much of that time our state has been a leader and innovator. Seattle and Spokane are not only recognized as Northwest regional capitals of medical research and training, with facilities such as the Fred Hutchinson Cancer Research Center and the Warren G. Magnuson Health Sciences Center, they also serve as home to Group Health Cooperative, internationally known as a model health maintenance organization.

Our rural areas as well have contributed greatly to our state's heritage as a leader in health policy and practice. Yakima County is the home of the first city/county health department in the United States. And our state's network of rural hospitals and training programs for health care providers in rural and medically underserved areas rank with the best developed in the nation.

Warren Featherstone Reid was raised in Wenatchee, Washington, and educated at Wenatchee Community College and George Washington University in Washington, D.C. He received his J.D. in 1961 from the University of Washington. "Feather" joined the staff of the Washington State Legislature in 1955 and remained in public service until 1993, when he retired from the Washington State Senate staff. During that time, he served our state as congressional aide, staff to the state Legislature, trusted advisor to Senator Warren G. Magnuson, and Governor Booth Gardner, and policy expert for countless state and federal officials.

During his career, Mr. Reid assisted Senator Magnuson for almost 20 years as his trusted aide and chief of staff in a sustained effort to advance the science and practice of medicine by expanding federal financial support for medical research through the National Cancer Institute, the National Science Foundation and the National Institutes of Health, and by helping to establish the Nurse Training Act, the National Health Service Corps, and the National Health Manpower Act. He advised Congress on countless health policy initiatives including Medicare and Medicaid.

Upon his return to the Washington State Senate in 1981, Feather became staff for Senator Jim McDermott and the Senate Committee on Ways and Means, specializing in health policy. In 1988, he became a key health policy advisor to Governor Booth Gardner. His efforts were central in several Washington State efforts to improve health care until his retirement in 1993. These included development of the Basic Health Plan, modifications to the Hospital Commission, changes to the manner in which the state purchases health care and passage of the Washington Health Services Act of 1993.

Featherstone Reid is presently pursuing the life of a retired gentleman of the first order enjoying travel and leisure from his home in Seattle.

Summary: The Warren Featherstone Reid Award for Excellence in Health Care is created to recognize cost-effective and quality health care services.

The Governor in conjunction with the Secretary of Health must bestow the award annually to the extent qualified applicants can be found upon a health care provider practicing in Washington State whose actual delivery of health care services exemplifies the highest achievements in consumer satisfaction, quality measurement, cost-efficiency, innovation, leadership, and other factors deemed appropriate by the Governor.

An advisory committee may be appointed to assist in the selection of honorees.

Votes on Final Passage:

Senate	43	0	
House	70	27	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 9, 1994

SB 6532

C 150 L 94

Changing provisions relating to release of criminally insane persons.

By Senators Wojahn, Talmadge, Deccio, Moore, Moyer, Spanel, M. Rasmussen and Oke

Senate Committee on Health & Human Services
House Committee on Judiciary

Background: Recently, a criminally insane person was released from a state mental institution without notice to the Department of Social and Health Services (DSHS). If DSHS had been given notice, it would have objected.

There is a belief that the law should be clarified to ensure that the court is fully informed before entering a release order.

Summary: A court may not release a criminally insane person from an institution, for either a conditional release or furlough, without a hearing, unless the Secretary of DSHS agrees to the release. If the Secretary of DSHS does not agree with the release, the court must hold a hearing regarding the conditional release or furlough.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: June 9, 1994

SSB 6538

C 151 L 94

Changing recreational boating safety education regarding fire prevention.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Owen and Oke)

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

Background: In response to recent boating accidents caused by the ignition of propane fuel, the Legislature enacted legislation requiring vessels with liquid petroleum gas (LPG) systems to be equipped with vapor warning systems. The State Parks and Recreation Commission was directed to request the Coast Guard to adopt standards for such systems or to adopt rules.

The federal Boat Safety Act delegates to the Coast Guard the authority to regulate equipment and safety measures on vessels, and includes a provision preempting state standards that are not identical to the federal standards. An additional provision of the act allows states to petition for an exception to this preemption, so that a state's standards may remain effective.

Pursuant to the 1993 state legislation, the State Parks and Recreation Commission requested the Coast Guard to adopt LPG warning system standards. The Coast Guard responded by letter declining to adopt such standards, based upon recommendations from a boating safety advisory council. The letter cited an opinion from its legal counsel that a state standard would be invalid in the absence of express federal approval, and delineated the information the state should provide in seeking an exception to the federal preemption.

Summary: The State Parks and Recreation Commission shall incorporate an emphasis on fire prevention into its boating safety program. It shall include distribution of educational materials and opportunities for educating boaters on safety practices in operating heaters, stoves and other appliances. The commission will report biennially to the Legislature on the effects of state and local safety programs, and recommend new safety and accident prevention measures.

The 1993 legislation requiring LPG warning systems on vessels is repealed.

Votes on Final Passage:

Senate	47	0
House	96	1

Effective: June 9, 1994

ESSB 6547

C 259 L 94

Providing for auditing of mental health systems.

By Senate Committee on Health & Human Services (originally sponsored by Senators Sheldon, Niemi, Prentice and Anderson)

Senate Committee on Health & Human Services
House Committee on Human Services

Background: The 1989 reform of the state's mental health system (SB 5400) had as one of its goals "... reduced administrative layering, duplication, and reduced administrative costs..."

Evaluation reports by the Legislative Budget Committee, the University of Washington and others have documented that this aim of the legislation may not have been achieved. In addition, mental health service providers, county personnel and state personnel continue to voice concern about duplicative auditing procedures, paperwork and other accountability measures. Some claim as much as half of the funding now provided to mental health programs is consumed in administrative oversight activities, making these funds unavailable to support direct patient care.

Summary: The Department of Social and Health Services must establish a project to streamline accountability systems for mental health programs by: identifying rules; monitoring functions and other requirements leading to inefficiencies and eliminating them; developing a single accountability system for all state appropriated funds for mental health services; replacing process regulations and reporting requirements with a set of outcome objectives outlined in the act; and evaluating the feasibility of expanding financial incentives for achieving outcomes in contracts with mental health service providers and regional support networks.

Mental health clients and their representatives will participate in the pilot projects.

The project must be implemented in at least two regional support networks by July 1995, with full implementation statewide by July 1997. The department must report to the Legislature annually. The department, regional support networks and mental health service providers must also report on the need to change state or federal statutes, rules, policies or procedures to ensure the purposes of the act are implemented.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	97	0
Senate	46	0

Effective: June 9, 1994

SSB 6556

C 294 L 94

Allowing a nonprofit television reception improvement district to rent space from the department of natural resources for less than the fair market value of the property.

By Senate Committee on Natural Resources (originally sponsored by Senators Hargrove and Snyder)

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

Background: Because of severe impediments to television reception, such as the Olympic Mountains, reception in some areas is almost impossible without using transmitters to reinforce and redirect the television signals. Most of the translators for radio and television are on high mountain tops.

The Department of Natural Resources is allowed to lease state lands for commercial, industrial, residential, agricultural and recreational purposes, but must obtain fair market value for the rental return. Sites are extremely few and because of demand, the rental rates are quite expensive.

Summary: A nonprofit television reception improvement district that leases space from the Department of Natural Resources for the purpose of supplying television signals to homes, businesses or other entities that would otherwise be unable to receive United States television station reception will pay 50 percent of the lease fee if funded each biennium by the general fund.

An appropriation of $4,500 is made to the Department of Natural Resources from the general fund for the 1994-95 fiscal year.

A null and void clause is added.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 1994

SSB 6558

C 43 L 94

Modifying the excise taxation of sales of airplanes to the United States government.

By Senate Committee on Ways & Means (originally sponsored by Senator Gaspard; by request of Department of Revenue)

Senate Committee on Ways & Means
House Committee on Revenue

Background: Washington's major business tax is the business and occupation (B&O) tax. This tax is levied on the gross receipts of all business activities conducted within the state without any deduction for the costs of doing business. The tax pyramids at each level of production (e.g. manufacturing, wholesaling, and retailing).

If a parent corporation has paid B&O tax on sales to its wholly owned subsidiary of airplanes, locomotives, railroad cars, or watercraft, for use in interstate or foreign commerce, the sale of this equipment by the subsidiary is exempt from B&O tax.

Summary: The B&O tax exemption for sales of transportation equipment by wholly owned subsidiaries is extended to sales of airplanes to the United States government.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 9, 1994

SSB 6561

PARTIAL VETO

C 47 L 94

Expanding the marketplace program.

By Senate Committee on Trade, Technology & Economic Development (originally sponsored by Senators Skratek and Bluechel; by request of Department of Trade and Economic Development)

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing

Background: The Washington Marketplace Program was created in 1988. It is administered by the Department of Trade and Economic Development. The program attempts to match local suppliers with local businesses currently purchasing out of state, to increase local commerce and create jobs in the state. Businesses that profit from the program may be charged a service fee.

Under current law, the department is not authorized to contract with out-of-state entities in an effort to generate buying leads for potential suppliers in Washington or to contract with industry associations or other governmental bodies to carry out the purposes of the Marketplace program.

Summary: The Department of Community, Trade, and Economic Development is authorized to contract with governments, industry associations, or local nonprofit organizations to carry out the purposes of the Marketplace program.

In addition, the department may establish linkages with federal, regional, and Northwest governments and nonprofit organizations, to foster buying leads and information benefiting Washington suppliers and industry and trade associations. Businesses may be charged service fees for participating in the Marketplace program.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 9, 1994

Partial Veto Summary: A section of the bill, including a delayed effective date consistent with the planned July 1994 merger of the Departments of Community Develop-

ment and Trade and Economic Development, is vetoed making the bill's effective date consistent with the departments new merger date of March 1994.

VETO MESSAGE ON SB 6561-S

March 21, 1994

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, 3 and 4, Substitute Senate Bill No. 6561 entitled:

"AN ACT Relating to the marketplace program;"

Substitute Senate Bill No. 6561 makes two separate amendments to RCW 43.31.526, section 1 to be effective immediately and section 2 to be effective on July 1, 1994. The purpose of this dual amendment was to make the bill conform with the scheduled merger of the Departments of Fisheries and Wildlife. At the time that Substitute Senate Bill No. 6561 was passed, the merger of these agencies was scheduled to occur on July 1, 1994. With the passage of Senate Bill No. 6346, the merger of these agencies was moved up to March 1, 1994. Therefore, the provisions of section 1 and the related effective dates in sections 3 and 4 are no longer necessary, and for these reasons, I am vetoing sections 1, 3 and 4 of Substitute Senate Bill No. 6561.

With the exception of sections 1, 3 and 4, Substitute Senate Bill No. 6561 is approved.

Respectfully submitted,

Mike Lowry

Mike Lowry
Governor

ESB 6564

C 65 L 94

Authorizing Snohomish county to levy a hotel and motel tax for public stadium, convention, performing arts, and/or visual arts facilities.

By Senator Vognild

Senate Committee on Ways & Means
House Committee on Revenue

Background: Cities and counties are authorized to levy a special excise tax of up to 2 percent on the furnishing of 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. City taxes are credited against county taxes, and city and county taxes are credited against the state sales tax on the furnishing of lodging.

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.

Summary: The legislative body of a county with a population of over 400,000 north of the northernmost boundary of King County may levy an additional excise tax up to 2 percent on the furnishing of lodging. This tax is in addition to state and local sales taxes. Moneys collected from this tax may be used for the statutorily authorized purposes, including an arena.

The county legislative body is required to hold a public meeting before imposing the tax to consult with the mayor of every city and town in the county regarding the proposed use of tax revenues and must consult with the mayors at least annually thereafter.

Votes on Final Passage:

Senate	36	10
House	82	16

Effective: June 9, 1994

SSB 6571

C 295 L 94

Disclosing information on residential real estate.

By Senate Committee on Labor & Commerce (originally sponsored by Senators Moore, Wojahn, Gaspard, Franklin, Prentice and Winsley)

Senate Committee on Labor & Commerce
House Committee on Financial Institutions & Insurance

Background: Before the purchase of a residence, various reports are generated regarding the value and condition of a residence. These reports include appraisals, inspections, and may include other documentation. Often a residential mortgage lender obtains copies of these reports, before approving a loan, in order to assess the value and condition of the residence being financed.

Concerns have been expressed that lenders should have a duty to share appraisals, inspections, and other pertinent documentation with purchasers of a residence prior to the closing of a residential mortgage loan.

Summary: Prior to closing, a lender must provide the borrower with true and complete copies of the documents that the lender relied upon when evaluating the value of the residence to be financed. The borrower may waive the requirement to have these documents prior to closing.

Votes on Final Passage:

Senate	41	6	
House	98	0	(House amended)
Senate	44	2	(Senate concurred)

Effective: June 9, 1994

SB 6573

C 66 L 94

Directing a study to examine the effect of the tax system on manufacturers.

By Senators Bauer and Bluechel

Senate Committee on Ways & Means
House Committee on Revenue

Background: Washington's major business tax is the business and occupation (B&O) tax. This tax is levied on the gross receipts of all business activities conducted within the state without any deduction for the costs of doing business. Because of this, the tax is more beneficial to high-profit businesses which tend to be more established.

In addition, retail sales and use taxes apply to labor and materials used to construct or renovate manufacturing facilities and to the purchase of new and replacement manufacturing equipment and machinery. The retail sales tax does not apply to the purchase of property which becomes an ingredient or component of a new article of property for sale.

Summary: The Department of Revenue shall study the current state tax structure as it applies to manufacturers. The study shall address the taxes that apply, incentives that are available, effects over the various stages of its business cycle, the treatment of new and established manufacturers, the added cost of capital resulting from the sales tax on construction and equipment, taxes and tax incentives in other states, the relative competitive position of in-state and out-of-state manufacturers, and the economic and other effects of tax incentives.

The department shall form an advisory study committee with representation from government and the manufacturing industries. The advisory committee shall include two members from the House of Representatives, two members from the Senate, and representatives of both small and large manufacturing businesses. The advisory committee may also include representatives of local government, and tax policy experts from the academic, legal, and business communities.

The Department of Revenue shall present a final report to the legislative fiscal committees by December 31, 1994.

Votes on Final Passage:

Senate	43	0
House	95	0

Effective: June 9, 1994

SB 6582

C 67 L 94

Applying grades and standards only to apples packed in Washington state.

By Senators M. Rasmussen, Newhouse, Loveland and Moore

Senate Committee on Agriculture
House Committee on Agriculture & Rural Development

Background: The Department of Agriculture establishes, by rule, grades and standards for apples. The department has established standards such as Washington Extra Fancy, which have become known to buyers on a national basis.

Apples grown and being packed in other states have begun to be labeled as "Washington Extra Fancy".

Summary: The grades and standards shall be applied to and used on those containers of apples packed within the state of Washington.

It is a violation of state law to sell apples in containers marked with Washington State grade designations unless the containers were packed in Washington.

Votes on Final Passage:

Senate	45	0
House	95	0

Effective: June 9, 1994

SB 6584

C 296 L 94

Providing benefits under the family emergency assistance program.

By Senator Rinehart; by request of Department of Social and Health Services

Senate Committee on Ways & Means

Background: The Consolidated Emergency Assistance Program (CEAP) provides cash grants for specific emergency needs such as food, shelter, clothing, and minor medical care. Payments are limited to be no more than the Aid to Families with Dependent Children (AFDC) grant. Statutorily, CEAP benefits may be provided for up to two months within any 12 month period, although current DSHS rules limit benefit receipt to no more than one month within any 12 month period. Approximately half of the households which receive CEAP benefits are subsequently approved for AFDC. The federal government provides matching funds for 50 percent of CEAP costs.

Summary: As part of the 1993-95 DSHS-Division of Children and Family Services budget, CEAP was expanded so as to receive $13 million in federal matching funds for family reconciliation and child protective services that had previously been funded with state-only funds. Statutory language is altered to allow DSHS to claim fed-

eral funding for up to three months; it also expands the number of children eligible for such matching funds by removing language limiting eligibility to persons below the federal poverty level. These changes will not alter eligibility requirements or the one-month benefit limitation for emergency cash grants.

Votes on Final Passage:

Senate	47	0
House	91	1

Effective: June 9, 1994

ESSB 6585

C 208 L 94

Extending tuition exemptions for Vietnam and Persian Gulf veterans.

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Oke and Roach)

Senate Committee on Ways & Means
House Committee on Higher Education
House Committee on Appropriations

Background: The governing boards of the state's public higher education institutions may exempt veterans of the Vietnam conflict who served in Southeast Asia from the payment of any increase in student tuition and fees. The veteran shall not be required to pay more than the total amount of tuition and fees paid by veterans of the Vietnam conflict on October 1, 1977. To qualify for the exemption, the veteran must have been on active service between August 5, 1964 and May 7, 1975. Additionally, the veteran must be a resident of Washington and must have enrolled in a state higher education institution on or before May 7, 1990. This exemption expires June 30, 1995.

Students who were enrolled in Washington State institutions of higher education on or after August 2, 1990, and whose academic work was interrupted by deployment in the Persian Gulf combat zone, are entitled to either a refund of tuition and fees for that academic term or shall be readmitted for one academic term without being subject to additional tuition or fees. The refund and reenrollment benefits for Persian Gulf War veterans expires on June 30, 1995.

An additional tuition exemption exists which exempts Persian War veterans from tuition increases after August 1, 1990, if the veteran could have qualified as a Washington resident on August 1, 1990 and if the veteran can demonstrate financial need. The sunset date for this exemption is June 30, 1994.

Summary: The tuition and fees exemption for Vietnam veterans and Persian Gulf veterans is extended to June 30, 1997. The tuition exemptions for Vietnam and Persian Gulf veterans may apply to all or a portion of the relevant tuition increases. Veterans receiving exemptions must be enrolled for seven or more quarter credits per term. For Vietnam veterans receiving exemptions, the veteran's adjusted gross family income must not exceed Washington State's median family income and the veteran must have exhausted all entitlement for federal vocational or educational benefits conferred by virtue of their military service.

Votes on Final Passage:

Senate	44	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 9, 1994

SSB 6593

C 152 L 94

Creating the learning and life skills grant program.

By Senate Committee on Education (originally sponsored by Senators Pelz, M. Rasmussen, Skratek and McAuliffe)

Senate Committee on Education
House Committee on Education
House Committee on Appropriations

Background: Learning centers provided educational programs for some students who were under the jurisdiction of the court system. The learning centers were operated jointly by local school districts and the Division of Juvenile Rehabilitation in the Department of Social and Health Services. The programs operated for a 220-day school year.

There were six learning centers located in Yakima, Walla Walla, Spokane, Everett, Seattle and Tacoma. During the 1991-93 biennium, $1.9 million was appropriated to the Superintendent of Public Instruction for six school districts to operate the education program at the centers and $400,000 was appropriated to the Department of Social and Health Services to provide facilities and staff support for the program. The program was not funded in the 1993-95 Omnibus Appropriations Act.

Summary: The Learning and Life Skills grant program is created. The Department of Social and Health Services administers the grants. The purpose of the program is to help court-involved youth gain the necessary life and educational skills to obtain a certificate of educational competency, obtain employment, return to a school program, or enter a postsecondary education or job training program.

A "court-involved youth" is a person under 21 who within the past 24 months has served a court-imposed sentence or been on probation or parole, or who is currently involved in a legal proceeding.

The department awards grants to selected districts. To be eligible for grants, school districts must agree to use for the program all the basic education dollars and federal dollars generated by the students participating in the program. Districts must agree to serve only court-involved

youth in the program and give priority to those students who have few other educational options, to design a program to meet the specific needs of court-involved youth and the specific needs of individual students, to collaborate with courts and community organizations, and to clearly define program goals. Attendance records must be kept. Districts must agree to participate in an evaluation of the program by the department.

The department may withhold grant funds if the terms of the agreement are not met.

The grant funds shall be used for facilities and case management services.

The department shall periodically evaluate the program. Items considered in the evaluation include data on youth served, the type of offense, the type of services, time in the program, academic progress, recidivism, and rates of employment and enrollment in postsecondary programs.

The legislation is void if funding is not provided in the budget.

Votes on Final Passage:

Senate	45	0
House	98	0

Effective: June 9, 1994

ESB 6601

C 184 L 94

Providing for government performance and accountability.

By Senators Gaspard, Sellar, Quigley, Rinehart, Oke, Winsley, Ludwig, Drew, Franklin, Skratek and M. Rasmussen

Senate Committee on Ways & Means

Background: A number of proposals have been made, both formally and informally, to explore methods of increasing the public accountability of state government and the efficiency of state programs and services. These proposals have called for increased performance audits, systematic reviews of state expenditures, performance-based management and budgeting methodologies, and other strategies to reduce structural barriers and increase incentives for innovative management.

Summary: The Washington Performance Partnership Council is created, consisting of the Governor, the Majority Leader of the Senate, the Speaker of the House of Representatives, the minority leaders of each house, and two statewide elected officials to be appointed by the Governor. The council is directed to facilitate a long-term process to improve state government. The council shall appoint an operating committee consisting of representatives of the executive and legislative branches of state government and representatives of the private sector.

The council and the operating committee are directed to prepare and submit to the Legislature a Statement of Strategic Intent for state government. The council and operating committee will also develop strategies for the continuous improvement of state government services by identifying the intended result of each government program or service, and redesigning state programs and internal systems, such as the state budget system, to encourage increased performance. Design teams consisting of frontline employees, managers, and customers will be used to develop prototypes of improved management methods.

The Performance-Based Government Act of 1993 is revised. The State Auditor is authorized to conduct performance verifications of state agencies and programs when authorized to do so in the omnibus appropriations act.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: March 30, 1994

SB 6604

C 68 L 94

Changing provisions regarding incapacitated persons who are medicaid recipients.

By Senator Rinehart; by request of Department of Social and Health Services

Senate Committee on Ways & Means

Background: Guardians and limited guardians may charge incapacitated persons to manage their affairs. The amount of this charge is fixed by the court at the time guardianship is established.

The fees charged by private guardians to state-supported nursing home residents have increased substantially in recent years. In 1989, such fees totalled $125,000. By 1993, this had grown to $1.6 million, or an average of $274 per month for each of the 486 Medicaid nursing home residents known to have had a fee-charging guardian last year.

When private guardianship fees are increased, state costs also grow, because state-assisted residents have less disposable income available to contribute to the cost of their care. The state has also been notified by the federal government that it is out of compliance with federal Medicaid requirements because it does not have specific standards defining which guardianship charges will be recognized as reasonable and which will not.

Summary: The Department of Social and Health Services (DSHS) shall establish in rule the maximum amount which guardians may charge DSHS-assisted residents of nursing homes and other long-term care facilities. Guardians may not charge DSHS residents for services which the

resident is already receiving as part of their state-funded service.

Votes on Final Passage:

Senate	45	2
House	92	2

Effective: June 9, 1994

SB 6605

C 153 L 94

Increasing access to health insurance for retired and disabled state and school district employees.

By Senator Rinehart

Senate Committee on Ways & Means

Background: Retired state employees have long had a statutory guarantee to continued coverage in a group health plan. State retirees pay their own health benefits premiums, but they are subsidized due to the fact that the retirees are in the same risk pool as active employees who, as a group, experience lower health costs than retirees.

Prior to the passage of SHB 1784 last year, school district employees had no statutory guarantee to continued group health benefits coverage after they retired. Some school districts offered continued coverage and others did not; some offered a subsidy to retirees and others did not.

With the passage of SHB 1784, retired school district employees can now purchase health benefits from the Health Care Authority. Retired school district employees are in a risk pool by themselves, but they are provided an explicit subsidy. Funding for the subsidy comes from the state allocation to school districts for employee health benefit premiums. For the 1993/94 school year, $10 per each active employee each month was provided from the school districts to the Health Care Authority. Beginning next year, the amount will be 4.7 percent of the state allocation to school districts for employee health benefits.

The subsidy received by school district retirees under age 65 is substantially less than the subsidy received by state retirees under age 65. The subsidies provided to school district and state retirees over age 65 are substantially the same.

The health benefits purchased through the Health Care Authority by Medicare-eligible state retirees do not include costs covered by Medicare. The Health Care Authority must adjust the rates charged to Medicare-eligible state retirees to reflect the differences in benefits they receive compared to non-Medicare eligible enrollees. Existing statutory language is ambiguous regarding the method by which these rates are to be calculated.

Under the Health Services Act of 1993, school districts and educational service districts must all purchase health benefits from the Health Care Authority beginning October 1995.

Summary: School district retirees under age 65 are brought into the risk pool with active public employees and state retirees under age 65 by January 1995. The existing explicit subsidy for school district retirees under age 65 is abolished.

Medicare-eligible retirees of school districts and the state are placed in a separate risk pool. They are provided an explicit subsidy. The amount of the subsidy is to be determined by the public employees benefits board. Funding for the subsidy will be determined in each omnibus appropriations act beginning with the 1995-97 biennium, and will be expressed as a percentage of the active employee insurance benefit rate. The 4.7 percent remittance from school district employees' benefit allocation is eliminated as of October 1995.

Monies provided by the 4.7 percent remittance prior to its elimination may be used to fund any increase in the state employee and retiree premium rate that may result from school district retirees joining the public employees' risk pool before active school district employees join in October 1995. Monies from the remittance may also be used to fund increased explicit subsidies to Medicare-eligible retirees of the state and school districts.

The Health Care Authority Administrator must establish a contract bidding process that maintains an equitable relationship between premiums charged for similar benefits and between risk pools, including premiums charged for retired state and school district employees in the Medicare-eligible risk pool. The Administrator may require an insuring entity submitting a bid to provide subscriber or member demographic data and claims data necessary for risk assessment and adjustment calculations.

Votes on Final Passage:

Senate	40	6
House	94	0

Effective: January 1, 1995
October 1, 1995 (Section 15)

SB 6606

C 10 L 94 E1

Repealing the general business and occupation surtax.

By Senators Rinehart, Gaspard, Quigley, Ludwig, A. Smith, Sutherland, Skratek, Haugen, McAuliffe, Sheldon, Bauer, Snyder, Spanel, Owen, Williams, Wojahn, Prentice, Fraser, Drew, L. Smith, Amondson, Bluechel, Schow, Morton, Cantu, Sellar, Newhouse, Anderson, Oke, McDonald, Nelson, Hochstatter, Roach, West, Moyer, Deccio, Erwin and Winsley

Senate Committee on Ways & Means
House Committee on Revenue

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. Although there are several different rates, the principal rates are:

Retailing activities	0.471%
Manufacturing, wholesaling, & extracting	0.515%
Miscellaneous services	2.13%
Selected business services	2.5%

Since the B&O tax is a gross receipts tax, deductions for the costs of doing business are not permitted. Some other deductions are allowed, but most of these are really exemptions of certain types of gross income or business activities.

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. 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, a 6.5 percent surtax was imposed for the period July 1, 1993, through June 30, 1997, on all B&O tax classifications except selected business services, financial services, retailing, and public and nonprofit hospitals.

Summary: The 6.5 percent surtax is reduced to 4.5 percent on January 1, 1995.

Votes on Final Passage:

Senate	47	0	
House	94	3	(House amended)
Senate			(Senate refused to concur)

First Special Session

Conference Committee

House	90	3
Senate	43	2

Effective: January 1, 1995

2SSJM 8003

Soliciting the continued partnership between federal agencies and the Washington State Rural Development Council.

By Senate Committee on Trade, Technology & Economic Development (originally sponsored by Senators Skratek, Erwin, Sheldon, Bluechel, M. Rasmussen, Deccio and von Reichbauer)

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing

Background: During the decade of the '80s and into the early '90s, much of rural Washington experienced economic distress and population decline as compared to the rapidly growing Puget Sound region.

In response to this period of rural recession, a series of state programs were established or expanded to address the problems facing rural communities, in particular "distressed areas." The legislatively mandated Service Delivery Task Force in its report to the Legislature stressed the need for policy and programmatic change in economic development programs, with emphasis on the following areas: clear articulation of comprehensive policies; need for delivery of services at the local levels; collaboration and building of trust among participants; and evaluation of programs.

In 1990, the federal government, by presidential initiative, established the Rural Development Council composed of representatives from the federal, state, local and tribal governments and the private and nonprofit sectors. These representatives are brought together in an effort to promote coordination and cooperation in promoting economic vitality in rural areas.

Summary: The Washington State Legislature requests Congress establish the Initiative on Rural Development on an ongoing basis and provide other states the opportunity to participate in efforts to enhance the economic viability of rural communities.

Votes on Final Passage:

Senate	48	0
House	96	0

SJM 8013

Petitioning the president on behalf of disabled veterans.

By Senators Winsley, M. Rasmussen and Oke

Senate Committee on Government Operations
House Committee on State Government

Background: Under current federal law, veterans with a service-connected disability and with 20 or more years of military service cannot receive concurrently both their full retirement pay and full disability compensation. Such veterans must choose to receive either their retirement pay or disability compensation, or they must waive an amount of retirement pay equal to the amount of their disability compensation.

This requires disabled military retirees to pay for their own disability compensation benefits out of their earned retirement pay. A number of measures have been introduced in the United States Congress which would reduce or eliminate this inequity.

Summary: The United States Congress is requested to amend existing federal law to permit career military retirees with service-connected disabilities to receive concur-

rently their full retirement pay and their full disability compensation.

Votes on Final Passage:

Senate	47	0
House	95	0

SJM 8027

Requesting that Congress help states with employment security system funding.

By Senators Vognild, Newhouse, Moore, Amondson, Prentice, Sutherland, McAuliffe and Fraser

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

Background: The 1993 Legislature established the Joint Task Force on Unemployment Insurance to undertake an in-depth review of Washington's Unemployment Insurance Program. The task force is composed of four members of the House of Representatives, four senators and four representatives of labor and business, respectively.

A key area of deliberation for the task force was the funding of the state's unemployment insurance (UI) program. Currently the state's UI program has two main funding sources:

(1) The state's UI employer tax. These taxes are paid by all covered employers on each employee. The tax ranges from.4 percent to 5.4 percent of taxable payroll ($19.9 K-1994) and is based on an employer's experience rating and the level of the UI trust fund. Currently the trust fund is at an historically high level of approximately $1.7 billion resulting in a reduced tax schedule.

(2) Federal Unemployment Tax Act (FUTA). These taxes are levied on employers through the U.S. Internal Revenue Service. The tax is .8 percent of the first $7,000 paid to each employee. These funds are also deposited in a FUTA fund controlled by the Department of Labor for the following purposes: (a) administration account for the administration of all employment security departments nationwide; (b) extended benefits account for the payment of the federal share (50 percent) of extended benefits and 100 percent of some federal benefit programs like emergency unemployment compensation; (c) loan fund account available to states who have depleted their UI trust fund.

The task force made the following finding regarding federal retention of FUTA funds: "It is generally held by the majority of employment security departments throughout the United States that the distribution of FUTA funds to the states by the federal Department of Labor has undergone a dramatic policy change in the last decade. The levels of funding provided to the states have gradually declined in real terms and the rate of payment between 1985 and 1993 for certain nonmonetary determinations has been reduced. This reduction in funding is considered to be a direct result of the federal Budget Reconciliation Act whereby FUTA funds are kept in the federal funds to help balance the federal budget."

In order to address this issue, the task force recommended a memorial be sent to Congress requesting the release of funds in the FUTA administrative account in order to fully fund the cost of administering the state's UI program.

Summary: The Legislature requests Congress: (1) remove the dedicated FUTA trust fund money from the federal unified budget; (2) exclude from the calculation of the federal budget deficit balances the unemployment insurance trust fund; (3) make decisions concerning spending for extended unemployment benefits and general program administration based on their merits and not the level of the federal deficit; and (4) provide states with the flexibility to meet the needs of unemployed Americans.

Votes on Final Passage:

Senate	45	0
House	96	0

SJM 8029

Petitioning Congress to allow states to require a notice requirement before imposing a federal lien on real property.

By Senators Morton, A. Smith, Hochstatter, Prince, McDonald, Oke, Bluechel, L. Smith, Sellar, McCaslin, Moyer, Winsley, Deccio, West and Roach

Senate Committee on Law & Justice
House Committee on Judiciary

Background: A bill passed the Legislature in 1993 which was intended to ensure that property owners received notice that a federal lien had been filed against their property. The legislation provided that such liens could be filed only if the federal government certified that a copy of the lien document had been sent by registered or certified mail to the property owner.

The Governor vetoed the bill because it conflicted with a federal constitutional provision that vests Congress with exclusive authority to impose and collect federal taxes. Courts have held that states do not have authority to impose conditions on the collection of federal taxes, unless otherwise provided by Congress.

Summary: Congress is requested to enact legislation to allow states that impose notice requirements on state tax liens to impose similar notice requirements on federal tax liens.

Votes on Final Passage:

Senate	46	0
House	97	0

SJM 8030

Requesting a modification of the Marine Mammal Protection Act.

By Senators Oke, Owen, Hochstatter, Hargrove, Roach, Erwin, L. Smith, Spanel, Haugen and Snyder

Senate Committee on Natural Resources
House Committee on Fisheries & Wildlife

Background: Marine mammals have increased their populations since the Marine Mammal Protection Act afforded them federal protection. Marine mammals are causing significant predation on anadromous fish, some stocks of which are threatened or endangered.

Killing of predacious seals and sea lions is currently prohibited.

Summary: Congress is urged to modify the Marine Mammal Protection Act to allow for the killing of predacious seals and sea lions in order to increase survival of anadromous fish runs.

Votes on Final Passage:

Senate	42	5	
House	86	11	(House amended)
Senate	43	0	(Senate concurred)

SCR 8422

Directing the secretary of state to coordinate and form an advisory committee for Klondike gold rush centennial events.

By Senators M. Rasmussen and Erwin; by request of Secretary of State

Senate Committee on Trade, Technology & Economic Development
House Committee on Trade, Economic Development & Housing

Background: Washington's earliest history as a state was marked by its serving as a source of supplies for the fortune seekers of the Klondike gold rush. Today, Washington continues to offer services to thousands of tourists who pass through to British Columbia, the Yukon Territory, and the state of Alaska.

Summary: The Legislature directs the Secretary of State, in conjunction with an advisory committee, to coordinate centennial events in 1996, 1997 and 1998 commemorating the Klondike gold rush with the state of Alaska, British Columbia and the Yukon Territory.

Votes on Final Passage:

Senate Adopted
House Adopted

SCR 8423

Establishing the joint select committee on the Pacific Northwest Economic Region Agreement.

By Senators Snyder, Bluechel, Skratek, Cantu, Gaspard and Sellar

Senate Committee on Trade, Technology & Economic Development

Background: The Pacific Northwest Economic Region (PNWER) consists of the states of Idaho, Montana, Oregon, and Washington and the provinces of British Columbia and Alberta. PNWER promotes regional collaboration among its members to enhance the economic competitiveness of the region in international and domestic markets.

Summary: A Joint Select Committee on PNWER is established to initiate, review, and evaluate proposals and uniform legislation for PNWER and to make recommendations to the Legislature and the Governor. The committee consists of the legislators appointed as delegates and alternates to PNWER and is staffed by House Office of Program Research and Senate Committee Services staff.

Votes on Final Passage:

First Special Session
Senate Adopted
House Adopted

SCR 8431

Forming the Washington-Hyogo Legislative Friendship Association.

By Senators Fraser, Bluechel, Gaspard, Prince, Franklin, Moyer, M. Rasmussen, Sellar, Sheldon and Spanel

Background: The state of Washington and Hyogo Prefecture, Japan, have been sister states for over 30 years. This cordial relationship has aided international trade and tourism as well as cultural exchanges between Washington and Japan. The members of the Hyogo Prefecture Assembly, their state legislature, have formed a Japan-America friendship league to foster "friendship exchanges" with the state of Washington.

Summary: The Washington State Legislature resolves to form a reciprocal association for the purpose of promoting friendship and exchange with Hyogo. The membership of this association is to include all members of the Legislature and the Lieutenant Governor; other current and former state elected officials are authorized to become members.

A joint Washington-Hyogo Friendship Committee is created to provide leadership for the association. The committee shall consist of eight members, two from each major party caucus of the Senate and the House, respectively. The state's International Protocol Officer is directed to be

an ex officio member. The members of the joint committee are directed to choose a chair and other officers. The committee is authorized to appoint subcommittees and advisory groups of nonmembers.

The Secretary of the Senate and the Chief Clerk of the House are directed to provide administrative support for the committee. The state Office of International Relations and Protocol is authorized to support committee activities.

Votes on Final Passage:

First Special Session
Senate Adopted
House Adopted

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 Legislative Budget 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: The Legislative Budget Committee submitted two sunset reports to the Legislature in 1994. One covered the Center for International Trade in Forest Products (CINTRAFOR) and the other covered the Federation of Washington Ports. Legislation was enacted which gave CINTRAFOR a new sunset date of 2000 and extended the Federation of Washington Ports indefinitely.

In other legislation, the sunset date for the Linked Deposit program was moved from 1996 to 2000. In addition, legislation was also enacted that repealed the sunset dates for the following: Asian American Affairs Commission; Human Rights Commission; Office of Minority and Women's Business Enterprises; State Fire Protection Policy Board; and the Washington School Directors Association. The Chiropractors' Disciplinary Board and the required sunset review were terminated under the provisions of ESHB 2676.

Programs Extended without Sunset Provisions

Asian American Affairs Commission	HB 2486 (C 126 L 94)
Federation of Washington Ports	HB 2188 (C 75 L 94)
Human Rights Commission	HB 2486 (C 126 L 94)
Office of Minority and Women's Business Enterprises	HB 2486 (C 126 L 94)
State Fire Protection Policy Board	HB 2486 (C 126 L 94)
Washington School Directors Association	HB 2486 (C 126 L 94)

Programs with Sunset Dates Extended

CINTRAFOR Extended to June 30, 2000	SSB 6082 (C 282 L 94)
Linked Deposit Program Extended to June 30, 2000	HB 2486 (C 126 L 94)

Programs terminated and removed from Sunset through other legislative action

Chiropractors' Disciplinary Board	ESHB 2676 (C 9 L 94 E1 PV)

With the continued growth of the American Indian population in Washington, an educated leadership is vital for improving the economic sufficiency of the community. The seriousness of this situation requires an immediate and creative response to attain equity in enrollment and to inspire achievement for the American Indian student population. New partnerships among tribes, the business community, the philanthropic community, and the state are necessary to improve these circumstances.

--Higher Education Coordinating Board, 1994

■

Gov. Mike Lowry with the 1993 recipients of the American Indian Endowed Scholarship. From the left, Fawn Rena Sharp (Quinault), Carleen M. Anderson (Colville), and Martina M. Ramos (Colville) were the first students to benefit from this endowment fund.

Below, Michael Paul (Colville) and Debra Byrd (Yakima) bicycled 1,500 miles around the state to raise more than $50,000 in pledges for the fund. The pledges were matched by a grant from state monies, and other contributions to the fund. (Photo courtesy of John Klacik.)

SECTION II
Budget Information

Budget/Balance Sheet
Operating Budget Summary
Capital Budget
Transportation Budget

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1994 Supplemental Operating Budget (ESSB 6244)

Estimated Revenues and Appropriations

General Fund – State

(Dollars in Millions)

RESOURCES		
Unrestricted Beginning Balance		$ 234.2
Total Revenues (November 1993 Forecast)		16,136.4
February 1994 Forecast Update		160.2
1994 Supplemental Budget Changes		
Revenue Legislation		(48.1)
Fee Legislation		1.2
Budget Driven Revenue		9.9
	Total Resources:	**$ 16,493.9**

EXPENDITURES		
Original 1993-95 Biennial Budget		$ 16,137.0
1994 Supplemental Budget Changes:		
Targeted Budget Reductions		(58.5)
Fund Shift Savings		(44.8)
One-Time Spending Items		106.7
Forecast and Other Budget Adjustments (net)		65.2
	Subtotal – Supplemental:	**$ 68.6**
Other Appropriations Legislation		98.9
	Total Revised 1993-95 Expenditures:	**$ 16,304.5**
Transfer to Budget Stabilization Account (from original budget)		$ 25.0

RESERVES		
Unreserved Ending Balance (as of June 30, 1995)		$ 164.4
Budget Stabilization Account (Reserve for Pensions — $25.0 million)		125.0
	Total Reserves:	**$ 289.4**

Note: Reflects final executive action on all legislative fiscal matters.

Revenue and Fee Legislation and Budget Driven Revenue

General Fund – State

(Dollars in Thousands)

	1993-95 Impact	1995-97 Impact
REVENUE LEGISLATION		
Small Business Tax Credit — Effective 7/1/94 (SHB 2671)	$ (18,300)	$ (39,900)
Distressed Areas Sales Tax Deferral (SHB 2664)	(12,000)	(34,700)
Tax Exemption for High Technology Businesses — Effective 1/1/95 (SB 6347)	(9,600)	(68,400)
Reduce B&O Surcharge from 6.5% to 4.5% — Effective 1/1/95 (SB 6606)	(7,900)	(40,100)
YMCA and Government Physical Fitness Exemption (SHB 2341)	(759)	(1,732)
Low Density Light and Power Deduction (HB 2665)	(627)	(1,368)
Periodicals/Magazines B&O Tax (SHB 2235)	(406)	(443)
Mortgage/Rental Assistance (HB 2275)	(20)	(20)
Use Tax on Personal Property (HB 2481)	1,500	0
Total:	**($ 48,112)**	**($ 186,663)**
FEE LEGISLATION		
Violence Prevention Act (E2SSB 2319)	$ 1,090	$ 2,196
Crab Fishery (ESHB 1471)	(18)	(52)
Recreational Fish & Hunting License Fee (ESSB 6125)	60	200
Filing/Registration Fees for Limited Liability Companies (HB 1235)	41	57
Registration Fee on Sellers of Travel (HB 2688)	0	1,022
Firearm Registration Fee for Aliens (SB 6057)	10	19
Nonresident Collection Agency Licensing Fee (SB 6093)	(10)	(20)
Trademark Regulation Fee (SB 6276)	5	11
International Export Beer & Wine License Fee (SB 6298)	7	27
Total:	**$ 1,185**	**$ 3,460**
BUDGET DRIVEN REVENUE		
Lottery Commission Transfer	$ 395	$ 0
Liquor Control Board General Fund Transfer	(7)	0
Increase Treasurer's Service Account Transfer	1,000	0
Correct Water Quality Account Transfer	7,884	0
Decrease Transfer from Trust Lands Purchase Account	(1,700)	(1,700)
Correct Flood Control Assistance Account Transfer	(300)	0
Extension of Current IMR Tax Rate	2,663	0
Total:	**$ 9,935**	**($ 1,700)**

Note: Reflects final executive action on all legislative fiscal matters.

Other Appropriations
1994 Legislative Session

(Dollars in Thousands)

OPERATING BUDGET APPROPRIATIONS CONTAINED WITHIN OTHER LEGISLATION

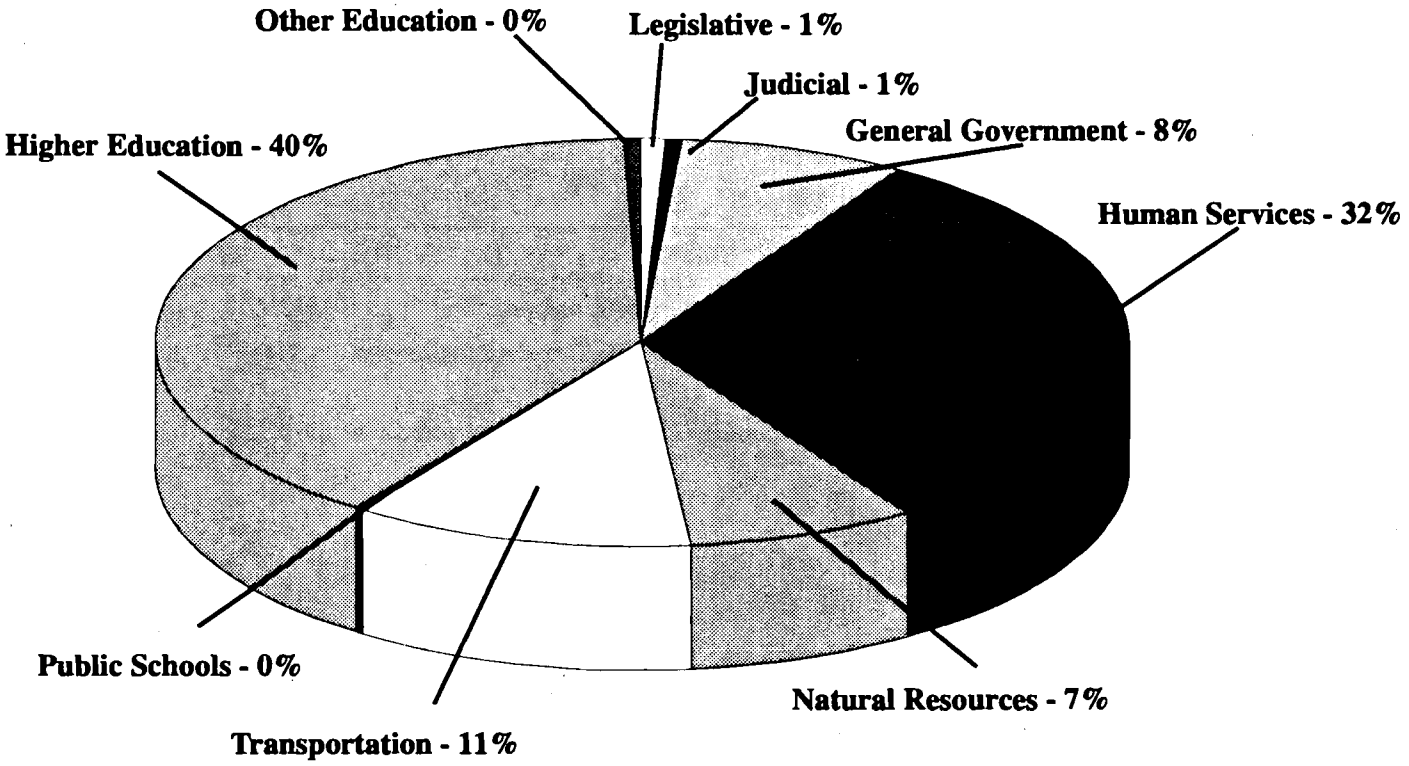
Bill Number and Subject	Session Law	Agency	GF-S	Other	Total
ESB 5920 - Unemployment Insurance	C 187 L 94	Employment Security		$ 400	$ 400
SSB 6047 - Driving Under the Influence	C 275 L 94	Dept of Licensing		1,564	1,564
ESSB 6084 - Transp Operating Budget	C 303 L 94	Legislative Transp Comm		(53)	(53)
ESSB 6084 - Transp Operating Budget	C 303 L 94	County Road Admin Board		(22)	(22)
ESSB 6084 - Transp Operating Budget	C 303 L 94	Transp Improve Board		(10)	(10)
ESSB 6084 - Transp Operating Budget	C 303 L 94	Transportation Commission		(33)	(33)
ESSB 6084 - Transp Operating Budget	C 303 L 94	State Patrol		1384	1384
ESSB 6084 - Transp Operating Budget	C 303 L 94	Dept of Licensing		12,345	12,345
ESSB 6084 - Transp Operating Budget	C 303 L 94	Dept of Transportation		(1,936)	(1,936)
		Total Other 1994 Session Operating Legislation:	**0**	**$13,639**	**$13,639**

1993–95 CAPITAL APPROPRIATIONS — GENERAL FUND — STATE

ESSB 6084 - Transp Capital Budget	C 303 L 94	Dept of Transportation	$93,925
SSB 6243 - Omnibus Capital Budget	C 308 L 94	Watershed Restor Partshp Pgm	5,000
		Total 1994 Session GF-S Capital Appropriations:	**$98,925**

Annual FTE Staff
Operating, Transportation & Capital Budgets

	Original 1993-95	Supplemental 1994	Revised 1993-95
Legislative	831.5	1.0	832.5
Judicial	503.7	4.3	508.0
General Government	6,944.6	(35.4)	6,909.2
Human Services	29,384.3	33.8	29,418.1
Natural Resources	6,752.0	(8.8)	6,743.2
Transportation	10,540.4	(106.9)	10,433.5
Public Schools	264.4	(1.1)	263.3
Higher Education	36,136.6	1.9	36,138.5
Other Education	411.4	(0.3)	411.1
Statewide Total:	**91,768.9**	**(111.5)**	**91,657.4**



- Note: The numbers in the table and graph above include combined FTE totals from the Omnibus Operating Budget, the Transportation Budget and the Capital Budget.

1994 Supplemental Operating Budget
Conference Report ESSB 6244
Budget Highlights

Youth Violence

A total of $17.8 million ($15.7 million GF-S) is provided to implement the comprehensive approach to violence set forth in the 1994 Violence Prevention Act Chapter 7 Laws of 1994 (E2SHB 2319). Some of the major components of the Youth Violence funding package include:

Community Public Health and Safety Networks – $6 million ($4.4 million GF-S). These broadly-representative community councils will be responsible for planning and coordinating local services and strategies which will reduce the number of young people at risk of juvenile crime, abuse and neglect, domestic violence, teen pregnancy, suicide, substance abuse, and school drop-out. State and federal funds are provided for two purposes: (1) local network development and comprehensive planning; and (2) grants for direct services projects which demonstrate a clear ability to reduce the number of children and youth at-risk.

Youth Employment and Training – $2.25 million GF-S. New funding is provided for three efforts: (1) start-up grants to expand afternoon and evening school-to-work programs for young people who have dropped out of high school, or who are at significant risk of doing so; (2) the Youthbuild program, which provides young people with training in the building and construction trades on projects which improve low-income housing; and (3) Learning and Life Skills Centers, which will be cooperative efforts between local school districts and the state juvenile rehabilitation program to improve education and employment outcomes for court-involved youth.

State Corrections and Juvenile Rehabilitation Services – $4.1 million GF-S. State prison and juvenile institution populations will increase due to increased penalties for juvenile offenses such as possession of a firearm, use of a firearm in a crime, and commission of a new crime while on parole. Sixteen and seventeen year-old serious and chronic violent offenders will automatically be tried and sentenced as adults, resulting in longer terms of incarceration. Additionally, funds are provided to develop a number of improvements in the state juvenile system, such as establishing a juvenile offender basic training ("boot") camp, planning improved vocational and substance abuse programming in state juvenile institutions, and developing a master plan for additional state and local juvenile detention space.

County Consolidated Juvenile Services – $2.8 million GF-S. County juvenile programs will receive an approximately 25 percent increase in second-year funding to support increased local detention and rehabilitation efforts.

K-12 Education

Long-Term Strategies

Transportation Program. Funds are provided for two additional Transportation Coordinators employed at the Educational Service District level. Part of their activities will involve ensuring the accuracy of data used for state reimbursement, cataloging hazardous walking conditions and small school district data. Data and analysis from the coordinators will be available for use in preparing future budgets. Savings are expected in the Pupil Transportation program which will pay for the cost of the additional coordinators.

Learning Assistance and Inservice Education Studies. The Legislative Budget Committee will study the K-12 Learning Assistance Program and teacher inservice training programs. A report is expected by December 15, 1994, for use in preparing next biennium's budget.

Special Education Program. The Institute for Public Policy and the Legislative Budget Committee will start a long-term study of the special education program. The study involves a complete fiscal review of a variety of issues. A first progress report is due December 15, 1994. In addition, funding is provided to initiate a longitudinal study of the Special Education program.

Instructional Materials and Technology – $18.8 million GF-S. A one-time appropriation of $20.61 per student is provided for the purchase of instructional materials and technology to improve learning for all students. The expenditure of these funds will be determined at each school site.

Work Transition Programs – $750,000 GF-S. As part of education reform, $750,000 is provided for expansion of school-to-work grants for high school vocational programs. The original budget provided $1.8 million for such grants and awards were made to 28 schools. An additional 50 applicants were not approved for lack of funding.

Student Learning Improvement Grants – $16.9 million GF-S. The grants are increased from three to four planning days for schools engaged in education reform in the 1994-95 school year. This level will be provided in the 1995-97

biennium rather than five days, which reduces projected general fund spending by $34 million in 1995-97.

Common School Construction – $15.3 million GF-S. Trust land revenues from timber sales have declined $52.3 million since the original 1993-95 budget was enacted. The budget provides $15.3 million in GF-S cash to make up part of the revenue shortfall. This will help reduce future general fund debt service requirements. The remaining revenue shortfall is addressed in the Capital Budget with $37 million in general obligation bonds.

Program Reductions

State Office Reductions – $150,000 GF-S savings. The biennial budget of the Office of Superintendent of Public Instruction is reduced by 0.75 percent.

Forecast and Other Adjustments

Employee Health Benefits Savings – $20.2 million GF-S savings. The legislative budget allocates $322.90 per employee per month for K-12 health benefits. While this represents a decrease from the $350.25 per month rate that was provided in the original 1993-95 budget, it is equivalent to the current rate provided in the 1993-94 school year, after adjustment for the retiree subsidy allocation. The rate reflects substantially lower medical inflation and utilization.

Enrollment Adjustment – $33.2 million GF-S savings. The Office of Financial Management's December 1993 forecast reduces expected enrollment by 3,887 students in the 1993-94 school year and 5,844 students in the 1994-95 school year. In addition, workload in the transportation program is lower than expected due to lower enrollment.

Reduced Inflation – $1.7 million GF-S savings. K-12 basic education programs received inflation adjustments for 1993-95. The February Economic and Revenue Forecast has lowered expected inflation from 2.7 percent for FY 94 and 3.0 percent for FY 95, to 2.4 percent and 2.9 percent, respectively.

Higher Education

Long-Term Strategies

1995-97 Efficiency Reduction – $39.0 million GF-S savings. Institutions of higher education are directed to begin preparing for efficiency reductions in 1995-97. The budget assumes a 2.4 percent reduction at the four-year institutions and a 2.0 percent reduction at the community & technical colleges. These measures will save $39 million during the 1995-97 biennium that will be directed toward higher education compensation increases.

New Appropriations

Distinguished Professorships/Graduate Fellowships – $3.4 million GF-S. Provides $3.4 million to create endowments for 10 distinguished professors and 36 graduate fellows at the four-year institutions of higher education. This one-time expenditure of public funds will be matched with private funds to create ongoing trusts. Interest earnings from the endowment will fund future programs.

Community College Faculty Salary Increments – $1.1 million GF-S. Additional funding is provided to the State Board for Community and Technical Colleges to address unfunded faculty salary increments.

New Community College District – $225,000 GF-S. Funding is provided for planning and operational development of the new community college district. Cascadia Community College will be collocated with the UW Bothell Branch campus.

Community and Technical College Equipment Matching Funds – $1.0 million GF-S. Funding is provided for instructional equipment purchases. Colleges will match the state funding with an equal amount of funds from private or other non-college sources.

Technical College Assessment – $300,000 GF-S. Funding is provided to include technical colleges in assessment of student outcomes.

Christa McAuliffe Educator's Award – $362,000 GF-S. Funding is provided to the Higher Education Coordinating Board to cover a shortfall in the Christa McAuliffe Educator's Award for Excellence Fund.

Forecast and Other Adjustments

Health Benefits Savings – $12.1 million GF-S savings. The cost of providing health insurance to higher education employees is lower than originally estimated by $12.1 million. The savings are a result of substantially lower medical inflation and utilization.

Department of Social & Health Services

Long-Term Strategies

Health Care Efforts. Consistent with 1993 health care reform, the Health Services Commission, in conjunction with the Office of Financial Management and the Department of Social and Health Services Medical Assistance Administration, is asked to conduct several analyses that may lead to the containment of future health care costs. As health care coverage expands throughout the state, the question of scope of services becomes increasingly important. A comparison of Medicaid benefits to other health care coverage will be undertaken. Income differences and ability to pay medical costs by all health care recipients are to be considered. Appropriateness of type and intensity of Medicaid services will also be analyzed, as will the impact of sliding scale co-payments or deductibles for receiving those services. Finally, selective statewide contracting for such items as prescription drugs and durable medical equipment will be investigated.

Community Mental Health Capacity-Building – $6.1 million 1995-97 GF-S savings. Mental health Regional Support Networks (RSNs) will use accumulated capital

project reserves, together with $1 million which is appropriated in the supplemental capital budget, to develop additional residential treatment facilities and community housing. These facilities, together with additional funds for community-based treatment next biennium, are expected to enable the RSN's to reduce their utilization of the state mental hospitals by at least 90 beds in 1995-97.

Long-Term Care System Design. The Long-Term Care program is directed to develop methods to reduce the growth in long-term care expenditures to a level no greater than the fiscal growth factors established under Initiative 601. Strategies to be reviewed include: eliminating excessive regulation, increasing the number of tasks which can be performed by non-licensed people, providing nursing home preplacement screening for all nursing home residents, selectively contracting for long-term care services based on cost and quality, and obtaining federal waivers to reduce the number of Medicaid nursing home clients so that they can be cared for in their homes and communities.

Redirect Welfare Incentives

Changing CSO Culture – $2.3 million GF-S, $2.6 million GF-Federal. As part of welfare reform, Chapter 299 Laws of 1994 (E2SHB 2798), funding is provided to retrain community service office (CSO) staff to effectively communicate the transitional nature of public assistance and the expectation that recipients will become self-sufficient through employment. Computer terminals linked to the Employment Security JOBNET will be stationed in each office. Informational videos will be shown in all CSO waiting areas, addressing such subjects as family planning, employment readiness, job opportunities, and educational materials for children. In addition, the budget provides funding to implement a database to track recipients who have taken any job offered and to make changes in the ACES computer project necessary to implement welfare reform.

Increased Ties with the Employer Community – $750,000 GF-Federal, $500,000 Administrative Contingency Fund. Job developers are added to the Community Services Offices to increase employment opportunities available to public assistance recipients and strengthen the linkages to the employer community.

Eliminate 100 Hour Rule – $774,000 GF-S, $842,000 GF-Federal. The budget eliminates the requirement that welfare recipients work less than 100 hours per month in order to retain their eligibility in the AFDC-E (two parent) program. This requirement is a major disincentive for parents to seek employment.

Teen Aware – $403,000 GF-S. Funding is provided to the Office of the Superintendent of Public Instruction for grants to school districts for media campaigns promoting sexual abstinence and delaying of childbearing. The grants require local private sector matching funds and are for projects that are substantially designed by students.

New Appropriations

ACES Federal Funding Shortfall – $3.1 million GF-S. The budget provides $3.1 million for continuation of the Automated Client Eligibility System (ACES) which is intended to automate the welfare eligibility determination process. The federal enhanced match percentage rate was recently reduced, thereby causing a state funding shortfall. Concurrent with implementation of the ACES computer system, The budget also establishes a new working group to move ACES toward a more flexible "open" computer system orientation.

Eliminate Medicaid $1 Co-Payment – $3.1 million GF-S. The budget eliminates the $1.00 co-payment for prescription drugs, physician and dental visits, and eyeglasses for Medicaid recipients which was instituted in the 1993-95 budget. Due to difficulties in collecting the co-payments, anticipated savings were not being fully realized.

Family Preservation Services – $2.9 million GF-Federal. Federal Medicaid and block grant funds will be used to support two expansions in services to reduce child abuse and neglect. If approved by the federal government, federal Medicaid matching funds will be used to expand the number of families receiving intensive in-home family preservation services by 27 percent. Second, new federal block grant funds will be used to expand therapeutic child care programs for abused and neglected children by 120 slots.

Increased Permanency Planning – $900,000 GF-S, $300,000 GF-Federal. Additional social work and attorney general staff are provided to more quickly develop and implement plans for a permanent home on behalf of children who have been in out-of-home care on a long-term basis. Substitute Senate Bill 6255 provides that child placing agencies will develop, and the courts will review, permanency plans more quickly after a child's removal from the home.

Managed Care for SSI Clients – $400,000 GF-S, $400,000 GF-Federal. Additional staffing and support is provided to move Social Security Income (SSI) clients from the current fee-for-service system to managed care, as part of the Healthy Options Program. Access to quality care is maintained while savings are achieved through managed care. Total savings of $9.2 million are expected during the 1995-97 biennium.

Specialized Counseling for Women – $50,000 GF-S. One-time funding is provided to integrate family planning considerations into chemical-dependency treatment programs. Savings of at least $200,000 are expected during the 1995-97 biennium.

Expanded Family Planning Coverage – $100,000 GF-S, $800,000 GF-Federal. Funds are provided for one-time outreach efforts and additional family-planning services in

Spokane. An estimated $600,000 GF-S savings for the 1995-97 biennium are assumed through increased use of family planning strategies.

Homeless Children and Families – $964,000 GF-S. AFDC grants will continue for families with children in short-term foster care enabling them to maintain stable housing and prepare for reunification with their children. To reduce the risk of homeless children, families with children in long-term foster care will receive AFDC grants one month prior to reunification.

Program Reductions

Eliminate Obstetric and Pediatric Fee Increases – $4.2 million GF-S savings. The 12.1 percent obstetric fee increase scheduled for July 1, 1994 and the 5.9 percent pediatric fee increase scheduled for January 1, 1995 will be eliminated. Eliminating the increases is not expected to have any significant impact on provider access.

Welfare Office Administrative Reductions – $4.3 million GF-S savings. Administrative reductions are made in the community services offices. The majority of these reductions are cost savings due to better management of lease space by the department.

SSI State Supplement - Ineligible Spouses – $1.2 million GF-S savings. The state supplemental payment for the Supplemental Security Income (SSI) program is reduced by about $22 per month for SSI recipients whose spouses are not eligible for the SSI program. Currently, state supplementary payments are higher for households with an SSI-eligible person and a spouse, even if the spouse is not eligible for SSI.

Headquarters Administrative Reductions – $1.1 million GF-S savings. Administrative and support staffing in the agency's headquarters division is reduced by an additional 17 full-time-equivalent (FTE) staff. Additionally, a number of agency advisory committees are consolidated to reduce travel and support costs.

Employer Reporting – $849,000 GF-S savings. The budget increases employer reporting of new hires to the Office of Support Enforcement, resulting in an increase in child support collections which help offset AFDC grant payments.

GA-U Sponsored Alien Eligibility – $540,000 GF-S savings. The budget makes General Assistance-Unemployable (GA-U) eligibility rules for sponsored aliens consistent with AFDC and SSI eligibility rules. Currently, sponsored aliens (individuals who are allowed to enter the U.S. with the promise of financial support from a U.S. resident) are generally ineligible for AFDC and SSI.

Forecast and Other Adjustments

FMAP Change – $60.7 million GF-S. The Federal Medical Assistance Percentage (FMAP), determines the federal government's share of the cost of various social service programs such as Medicaid, AFDC, child welfare services and other grant programs. The state's FMAP percentage will decrease from 54.24 percent to 51.97 percent, effective October 1, 1994, and state funds are needed to make up the resulting federal funding reduction.

Support Enforcement Shortfall – $27.4 million GF-S. Support enforcement collections, which offset AFDC grant costs, are expected to be well below the level assumed in the original 1993-95 budget. Additional appropriations are needed to support Income Assistance grant levels and child support enforcement activities.

Juvenile Rehabilitation Forecast – $9.9 million GF-S. State juvenile facilities are expected to incarcerate and treat a biennial average of 165 more youthful offenders per day than was forecast when the original 1993-95 budget was developed. This is a 17 percent increase over the original biennial forecast, and does not include the additional youth who will be incarcerated in accordance with the Violence Prevention Act.

Medical Assistance Caseload Adjustment – $8.2 million GF-S. The November 1993 caseload update forecasts an increase in the expected number of Medicaid-eligible children, disabled persons, and pregnant women, above the level assumed in the 1993-95 budget.

Fund Shifts – $38.8 million GF-S savings. Several fund transfers are included in the budget, primarily resulting from DSHS pursuit of federal funding to help offset state general fund spending requirements. These fund shifts are:

- Increased federal earnings for child protective services and family reconciliation services ($13.0) million.
- Mental health state hospital intergovernmental transfers ($12.7) million.
- Medicaid match for therapeutic child care ($4.2) million.
- Medicaid match for undocumented alien children emergency medical care ($4.2) million.
- State legalization assistance federal grant funding ($2.5) million.
- Medicaid matching funds for DSHS administration ($1.2) million.
- Omnibus drug fund shift for alcohol and drug programs ($1.0) million.

Recoveries from Private Payers – $3.7 Million GF-S savings. State funds will be saved in several areas by recovering more of the cost of services to DSHS clients from private parties. These state savings include:

- Retroactive Medicare payments to mental health providers ($3.0 million).
- Limitations on guardianship fees for DSHS recipients ($500,000).
- Recoveries from the estates of Medicaid recipients ($200,000).

SSI Administration Fees – $4.2 million GF-S. The federal government will begin charging states an administrative fee for costs associated with assessing eligibility for the Supplemental Security Income program. This amount represents Washington state's portion of the fee for fiscal year 1995.

Other Human Services

Long-Term Strategies

Corrections Cost Containment. The Department of Corrections is directed to develop options for reducing its 1995-97 operating and capital budget costs, based on the "highest and best use" and "life cycle" cost analyses developed by the Legislative Budget Committee during the 1993 legislative interim. In addition, the Department is required to work with the Health Care Authority to develop correctional health care cost containment strategies for implementation in the next biennium.

Corrections Health Care Data System – $356,000 GF-S. Funding is provided to purchase a centralized data collection system for inmate health care expenditures. In consultation with the Health Care Authority, the department will take further steps to evaluate health care cost containment measures and report back to the Legislature.

New Appropriations

One-Time Prison Impact Funding – $1.2 million GF-S. Three local governments will receive one-time impact grants to meet costs associated with the opening of new correctional facilities. Franklin County will receive $167,617 due to the opening of Coyote Ridge Corrections Center, and the city of Airway Heights will receive $806,000 and Spokane County will receive $300,000 for the opening of the Airway Heights Corrections Center.

Department of Veterans Affairs – $1.4 million GF-Federal and local funds. An additional 41 full-time-equivalent (FTE) staff are provided to assure that care at the state veterans homes meets the standards for Medicaid nursing facilities. Additionally, the agency is authorized to transfer certain funds and FTEs from the homes into its headquarters and field services operations, and funds are appropriated to reflect an increase in federal grants for services to homeless veterans.

Department of Agriculture Commodities Shortfall – $975,000 GF-S. The U.S. Department of Agriculture will no longer provide surplus food to prisons after September 30, 1994. As a result, the department must purchase food with state funds.

Chemically Related Illness – $1.5 million other funds. Funding is provided to the Department of Labor and Industries to support research on chemically related illness. Programs include development of a sound scientific research and implementation plan. A progress report is expected by June 30, 1995. An additional 4 FTEs are also provided for adjudication of claims and other activities related to chemically related illness.

Building Inspection Program Enhancement – $210,000. $210,000 and 3 FTEs are provided to the Department of Labor and Industries to enhance current building inspection efforts.

Program Reductions

Correctional System Efficiencies – $7.5 million GF-S savings. The budget reduces funding for the department based on the results of a Legislative Budget Committee study which identified opportunities for administrative efficiencies at the Monroe prison complex. In addition, the department is anticipated to identify further savings in equipment, staffing costs, medical cost containment, startup costs at Airway Heights Corrections Center, and in the community supervision program.

Close Monroe Honor Farm Housing Unit/Transfer Indian Ridge to DJR – $2.6 million GF-S savings. The budget proposes that the Department of Corrections no longer operate the Monroe Honor Farm Housing Unit or the Indian Ridge Corrections Center, effective July 1, 1994. These facilities are significantly more expensive to operate than other correctional facilities. The DSHS Division of Juvenile Rehabilitation will assume control of the Indian Ridge facility by October 15, 1994.

Delay Airway Heights Corrections Center – $7.2 million GF-S savings. The opening of the new 1,024-bed Airway Heights Corrections Center will be delayed from April 1994 to November 1994, resulting in current biennium savings. The collocated 400-bed facility will continue to operate and provide the workforce needed for the food factory and other industries at the larger prison.

Forecast and Other Adjustments

Inmate Population Forecast Update – $2.4 million GF-S savings. The November 1993 update of the inmate population forecast reflects a decline in the inmate population of 176 in FY 1994 and 268 in FY 1995 as a result of legislation passed in the 1993 session relating to alien offenders and a work ethic camp pilot project, and increasing releases of old law indeterminate offenders. Significant population increases over the 1992 inmate population forecast are anticipated beginning in FY 1998.

GUIDE Computer System – $8.3 million other funds. An $8.3 million increase in the overall budget for the General Unemployment Insurance Development Effort (GUIDE) system is authorized to complete programming and implementation of this project.

Natural Resources

Long-Term Strategies

Long-Term Viability of State Parks. Rather than making short-term reductions in the operation and maintenance of

state parks, the Parks and Recreation Commission is directed to conduct a comprehensive review that examines the long-term structure of the state park system. In part, the study will include alternative approaches which more fully utilize private organizations in the operation and maintenance of state parks. This study will help guide budget decisions for the state parks system in the 1995-97 biennium.

Program Enhancements

Park Maintenance Projects – $5.0 million GF-S. One-time funding is provided for up to 17 critical park maintenance projects throughout the state which are necessary for the long-term viability of the state park system. The department is directed to make every effort to contract locally and provide local jobs to complete these projects.

Some of the critical maintenance and repair projects to be funded with this appropriation include:

- Statewide: Replace deteriorated tables, stoves and bumper blocks.
- Colbert House: Stabilize and restore historic house.
- Potlatch State Park: Replace failed trailer dump septic system.
- Larabee State Park: install emergency generator on sewage lift station.
- Lake Wenatchee State Park: Connect park sewage to local PUD system.
- Statewide: Install automatic fee collection stations at 37 parks.

Watershed Restoration – $10 million Watershed Restoration Account. Funding is provided to the Department of Natural Resources to jointly select projects with the Department of Fish and Wildlife for watershed restoration and fish stock recovery as established in ESSB 6344 (Omnibus Capital Appropriations Act). Funds may be transferred from the Department of Natural Resources to the Department of Fish and Wildlife for this purpose. In addition, the $2 million reduction to the Jobs and the Environment program which is jointly administered between the Department of Ecology and the Department of Natural Resources is restored as part of the total $10 million appropriation.

Department of Agriculture/Delay Impact of Administrative Fund Shift – $600,000 GF-S. Provides additional funding from the General Fund for transition to funding of administrative costs from agricultural local funds. This allows for the agency to adjust fees over a longer period of time. The department is required to report to the Legislature by November 15, 1994 regarding the allocation of administrative costs between programs and fund sources.

State Parks Trustland Transfer – $15 million GF-S. One-time funding is provided to purchase environmentally sensitive trustlands for the benefit of the Common School Construction Fund and to reduce the state's bonded indebtedness. By replacing $15 million of bonds with General Fund-State, future debt service payments of approximately $2.2 million per biennium are avoided (which would run through the year 2020).

Program Reductions

Ecology Reductions Savings – $1.0 million GF-S savings. Administrative savings occur through the consolidation of water resource management activities in the central and eastern regional offices. Additional savings are achieved through organizational consolidation and through reductions in travel and equipment. In addition, funding for the Ecological Commission, Nuclear Waste Advisory Council, and Science Advisory Board is eliminated.

Fire Suppression – $1.0 million GF-S savings. Fire suppression expenditures by the Department of Natural Resources for the first five months of the biennium were significantly less than anticipated.

General Government

Long-Term Strategies

Debt Service Savings – $31.4 million 1995-97 GF-S savings. The supplemental budget reduces current biennium appropriations for bond retirement and interest by $28 million General Fund-State as a result of (1) refinancing a portion of outstanding debt on capital construction and (2) taking advantage of lower interest rates in issuing bonds in the current biennium. In the 1995-97 biennium, these lower refinancing costs are continued, and an additional $3.4 million in savings are anticipated as a result of replacing bonds with cash in the trust land transfer program. This program provides funds to the Common School Construction Fund through purchases of environmentally sensitive trust lands.

New Appropriations

Executive and Legislative Ethics Boards – $205,000 GF-S. Funding is provided for the Executive Ethics Board established by Senate Bill 6111, which implements the recommendations of the Commission on Ethics in Government and Campaign Financing. The Legislative Ethics Board will be implemented and funded by the Legislature within available funds.

Judicial Information System – $4.2 million JIS Account. Funding is provided for an expansion of the Judicial Information System to 41 additional courts. The judicial information system is a mainframe computer system currently providing a variety of services to Washington courts. The courts use the JIS system for scheduling cases, recording fines and other payments, setting up payment schedules, managing court calendars, and tracking a defendant's criminal history. There are 148 courts using the system full time and over 360 prosecutor offices and

other justice agencies using the system on a part-time basis.

Division II Court of Appeals Judges – $367,000 GF-S. The Court of Appeals will receive funding for two additional judges for Division II, which was authorized in Chapter 420, Laws of 1993. The number of judges will be increased from four to six. The funding includes staff support of four law clerks and one secretary plus remodeling, equipment and furnishing costs.

Mainframe Software Reprogramming – $656,000 GF-S, $3.5 million other funds. Funds are appropriated to assist state agencies in reprogramming their mainframe software applications. Current applications are being phased out by the vendor and will no longer be serviceable in case of a breakdown.

Growth Management SEPA Grants – $1.4 million GF-S. Funding is provided for grants to local government to develop environmental impact analysis prototypes consistent with the management plans under the Growth Management Act. At least three prototypes will be developed that establish mechanisms to promote effective integration of the Growth Management Act with the State Environmental Policy Act.

Earthquake Preparedness – $650,000 GF-S. Funding is provided to increase the state's emergency preparedness and planning for earthquakes and other catastrophic events. This funding will be used to promote state and local disaster plan coordination, as well as earthquake contingency planning.

International Trade – $1.1 million GF-S, $170,000 Rural Rehabilitation Fund. Funding is provided to open three new overseas trade offices in China/Hong Kong, Canada and Mexico; expand existing trade offices in Taiwan and Tokyo; create a special trade representative for the Governor; and to build an international trade network, linking businesses with international trade opportunities. These enhancements are expected to support over $300 million in new export transactions and bring 200 new small and medium-sized companies into the export market over the next three years.

Washington Public Access Network – $5.4 million GF-S. Funding is provided to develop and implement television coverage of state government deliberations and other public policy events. Also, the network will include an interactive teleconferencing system. The network shall be administered by a non-profit organization.

Retired Senior Volunteer Program (RSVP) – $175,000. Funding is provided for continued support of the RSVP program through the end of the biennium.

Program Reductions

Legislative Agency Efficiencies – $2.0 Million GF-S savings. Efficiency reductions of two percent are taken in the House, Senate and other legislative agencies.

Reporter of Decisions Cost Recovery – $183,000 GF-S savings. The commission which supervises the publication of court reports currently has the authority to establish the price of Supreme Court opinions. This proposal requires the staff costs of the reporter to be fully recovered, saving a total of $183,000 GF-S this biennium and a total of $732,000 GF-S next biennium. The Court can study several options for obtaining these savings.

Local Match for Superior Court Judges Benefits – $389,000 GF-S savings. Local governments will be required to pay 50 percent of the cost of superior court judges medical, social security and insurance benefits. Currently, local governments and the state each pay one-half of the salary costs for superior court judges. The state will continue to fund the full cost of retirement benefits.

Boards and Commissions – $117,000 GF-S savings, $114,000 other fund savings. SHB 2676 restructures a total of 49 boards, commissions, and councils. Elimination or consolidation is recommended in cases where the board or commission is no longer active or the state can achieve savings by combining resources. Examples of boards and commissions affected include the Winter Recreation Commission, the Supply Management Advisory Board, and the Insurance Advisory Examining Board.

Forecast and Other Adjustments

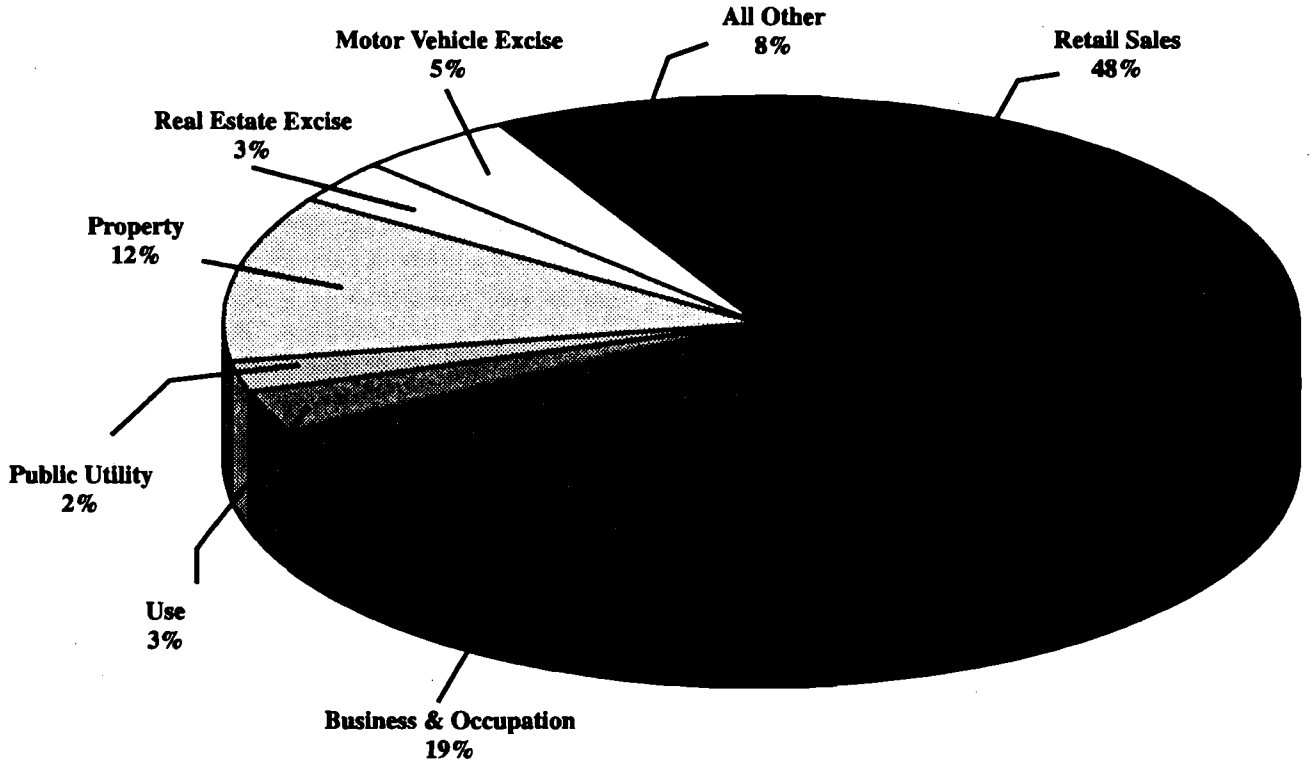
Health Benefit Savings – $14.0 million GF-S and $17.1 million Other Fund savings. The cost of providing health insurance to state employees is lower than estimated in the original budget. The lower costs are the result of reduced medical inflation and utilization which has created a surplus in the public employees' insurance account. The Legislature's budget uses this surplus to lower state employee health benefit premium rates to $305.32 per month. This rate will result in a continuation of existing health benefits for state employees, with no managed competition in the 1993-95 biennium.

Health Benefit Equity for Retired K-12 and State Employees. The legislative budget reflects SB 6605 (Retiree Health Benefits) which will reconfigure the existing public employee risk pools, resulting in greater equity between state retirees and K-12 retirees. K-12 retirees under age 65 will join state retirees under age 65 in the larger state employee risk pool, effective January 1, 1995. Their premiums will be subsidized through pooling with younger and generally healthier employees. K-12 and state Medicare-eligible retirees will be placed in a separate risk pool, and their subsidy will be increased. The Health Care Authority is directed to increase the existing subsidy for K-12 retirees prior to the reconfiguration of the risk pools.

General Fund – State Forecast – Cash Basis

February 1994 Forecast By Type of Tax
Updated for 1994 Legislation: 1993-95 Biennium

(In Millions)



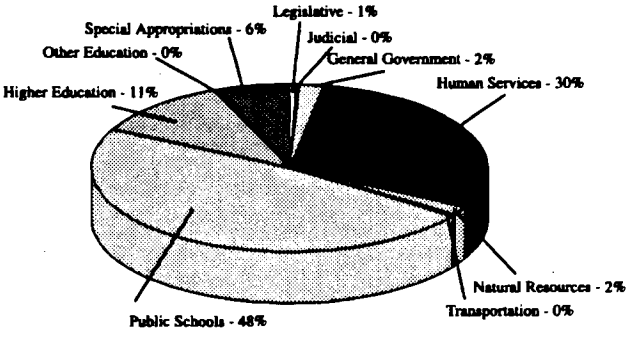
Sources of Revenue	
Retail Sales	$7,805.7
Business & Occupation	3,059.6
Use	537.2
Public Utility	347.7
Property (Schools)	1,957.8
Real Estate Excise	458.8
Motor Vehicle Excise	773.9
All Other	1,318.9
Total General Fund – State:	**$16,259.6**

Washington State 1993-95 Operating Budget
Updated for 1994 Legislative Session

Dollars in Thousands

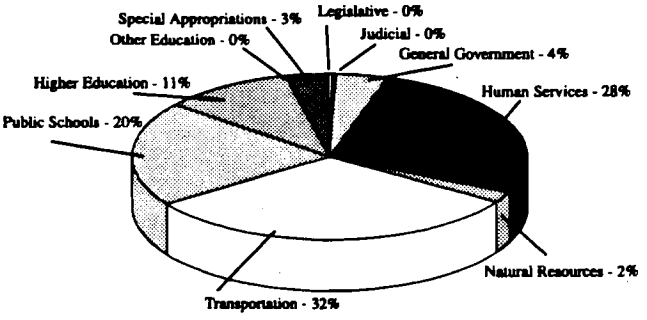
General Fund - State

Legislative		101,321
Judicial		55,359
General Government		308,861
Human Services		4,882,843
Natural Resources		263,032
Transportation		18,065
Total Education		9,661,972
Public Schools	7,756,642	
Higher Education	1,860,668	
Other Education	44,662	
Special Appropriations		913,917
Statewide Total:		16,205,370



Total Budgeted Funds

Legislative		108,358
Judicial		103,365
General Government		1,800,265
Human Services		11,199,948
Natural Resources		906,953
Transportation		1,639,958
Total Education		12,820,237
Public Schools	8,412,692	
Higher Education	4,323,056	
Other Education	84,489	
Special Appropriations		1,348,012
Statewide Total:		29,297,096



Note: Revised 1993-95 includes all legislative operating amounts.

Washington State Operating Budget Comparisons

1994 Supplemental Budget

TOTAL STATE

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	**Orig 93-95**	**94 Supp**	**Rev 93-95**
Legislative	101,545	(224)	101,321	108,635	(277)	108,358
Judicial	55,510	(151)	55,359	98,894	4,471	103,365
General Government	299,327	9,534	308,861	1,792,674	5,693	1,798,367
Other Human Services	841,243	(2,488)	838,755	2,044,115	17,774	2,061,889
Dept of Social & Health Services	3,945,485	98,603	4,044,088	9,025,364	112,695	9,138,059
Natural Resources	246,603	16,429	263,032	879,657	27,296	906,953
Transportation	20,759	(2,694)	18,065	1,625,958	14,000	1,639,958
Public Schools	7,753,641	3,001	7,756,642	8,409,691	3,001	8,412,692
Higher Education	1,866,090	(5,422)	1,860,668	4,327,918	(4,862)	4,323,056
Other Education	44,475	187	44,662	88,082	(1,695)	86,387
Special Appropriations	962,129	(48,212)	913,917	1,404,056	(56,044)	1,348,012
Statewide Total:	**16,136,807**	**68,563**	**16,205,370**	**29,805,044**	**122,052**	**29,927,096**

TOTAL LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	94 Supp	Rev 93-95	Orig 93-95	94 Supp	Rev 93-95
Legislative						
House of Representatives	46,189	(674)	45,515	46,189	(674)	45,515
Senate	35,457	(459)	34,998	35,457	(459)	34,998
WA Perform Partnership Cncl	0	500	500	0	500	500
Leg Budget Committee	2,067	359	2,426	2,632	359	2,991
Leg Transp Committee	0	0	0	2,644	(53)	2,591
LEAP Committee	2,400	77	2,477	2,810	77	2,887
State Actuary	0	0	0	1,649	0	1,649
Joint Leg Systems Comm	9,480	92	9,572	9,480	92	9,572
Statute Law Committee	5,952	(119)	5,833	7,774	(119)	7,655
Total Legislative:	101,545	(224)	101,321	108,635	(277)	108,358
Judicial						
Supreme Court	9,769	(183)	9,586	9,769	(183)	9,586
State Law Library	3,193	0	3,193	3,193	0	3,193
Court of Appeals	17,117	367	17,484	17,117	367	17,484
Judicial Conduct Comm	1,013	54	1,067	1,013	54	1,067
Admin for the Courts	24,418	(389)	24,029	67,802	4,233	72,035
Total Judicial:	55,510	(151)	55,359	98,894	4,471	103,365
Total Legislative and Judicial:	**157,055**	**(375)**	**156,680**	**207,529**	**4,194**	**211,723**

TOTAL GENERAL GOVERNMENT
(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	Orig 93-95	**94 Supp**	**Rev 93-95**
General Government						
Office of the Governor	6,138	(123)	6,015	6,138	(123)	6,015
Office of the Lieutenant Governor	484	0	484	484	0	484
Public Disclosure Commission	1,989	189	2,178	1,989	189	2,178
Secretary of State	8,049	500	8,549	12,577	484	13,061
Governor's Office of Indian Affairs	297	3	300	297	3	300
Comm on Asian-American Affairs	336	2	338	336	2	338
Office of the State Treasurer	0	4,990	4,990	10,020	4,790	14,810
Office of the State Auditor	20	0	20	36,984	(250)	36,734
Comm Salaries for Elected Offic	66	0	66	66	0	66
Attorney General	5,918	87	6,005	110,379	2,730	113,109
Dept of Financial Institutions	0	0	0	9,775	437	10,212
Econ. & Revenue Forecast Cou	815	3	818	815	3	818
Office of Financial Mgmt	19,660	(138)	19,522	35,083	(138)	34,945
Community Development	88,457	3,306	91,763	327,974	(1,410)	326,564
Office of Administrative Hearings	0	0	0	12,535	0	12,535
Dept of Personnel	0	0	0	28,493	1,352	29,845
Deferred Compensation Comm	0	0	0	2,692	376	3,068
State Lottery Comm	0	0	0	478,141	(388)	477,753
Washington St Gambling Comm	0	0	0	14,263	0	14,263
WA State Comm on Hispanic Aff	375	0	375	375	0	375
Gov Comm on African-Amer Aff	271	2	273	271	2	273
Personnel Appeals Board	0	0	0	1,268	170	1,438
Department of Retirement System	0	0	0	31,988	(148)	31,840
State Investment Board	0	0	0	6,939	294	7,233
Dept of Revenue	123,538	(1,180)	122,358	130,242	(1,113)	129,129
Board of Tax Appeals	1,340	0	1,340	1,340	0	1,340
Municipal Research Council	2,944	0	2,944	2,944	0	2,944
Uniform Legislation Commission	47	8	55	47	8	55
Minority & Women's Business Ent	0	0	0	2,103	(5)	2,098
Dept of General Admin	393	(6)	387	100,948	(432)	100,516
Dept of Info Services	0	400	400	180,252	405	180,657
Office of Insurance Commissioner	0	0	0	18,310	95	18,405
State Board of Accountancy	0	0	0	1,202	12	1,214
Death Investigation Council	0	0	0	14	0	14
Washington Horse Racing Comm	0	0	0	4,876	(98)	4,778
Liquor Control Board	0	0	0	111,231	(442)	110,789
Utilities and Transportation Co	0	0	0	29,559	(546)	29,013
Board for Volunteer Firefighter	0	0	0	398	0	398
Military Department	8,365	(167)	8,198	17,401	(348)	17,053
Public Employment Relations Com	1,771	1,577	3,348	4,408	(1,060)	3,348
Trade & Econ Development	25,026	141	25,167	35,018	122	35,140
Growth Planning Hearings Office	3,028	(60)	2,968	3,028	(60)	2,968
Convention & Trade Center	0	0	0	19,471	780	20,251
Total General Government:	**299,327**	**9,534**	**308,861**	**1,792,674**	**5,693**	**1,798,367**

TOTAL OTHER HUMAN SERVICES

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	**Orig 93-95**	**94 Supp**	**Rev 93-95**
Other Human Services						
Health Care Authority	6,810	20,608	27,418	158,771	17,691	176,462
Human Rights Commission	3,919	(180)	3,739	5,330	(180)	5,150
Bd of Industrial Insurance Appe	110	(110)	0	20,518	(518)	20,000
Criminal Justice Training Comm	0	0	0	11,200	(164)	11,036
Labor & Industries	9,241	246	9,487	378,674	(2,859)	375,815
Indeterminate Sentence Review Bd	2,643	(52)	2,591	2,643	(52)	2,591
Health Services Commission	0	180	180	4,004	229	4,233
Dept of Health	92,520	(2,858)	89,662	352,609	21,161	373,770
Department of Veterans' Affairs	20,701	(1,011)	19,690	46,942	1,699	48,641
Dept of Corrections	700,639	(19,958)	680,681	704,511	(20,943)	683,568
Dept of Services for the Blind	2,601	(14)	2,587	12,925	(56)	12,869
Sentencing Guidelines Comm	662	61	723	662	61	723
Employment Security	1,397	600	1,997	345,326	1,705	347,031
Total Other Human Services:	841,243	(2,488)	838,755	2,044,115	17,774	2,061,889

TOTAL HUMAN SERVICES
(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	94 Supp	Rev 93-95	Orig 93-95	94 Supp	Rev 93-95
Dept of Social & Health Services						
Children & Family	292,004	(8,652)	283,352	489,133	14,113	503,246
Juvenile Rehab	120,210	16,027	136,237	131,135	16,268	147,403
Mental Health	398,605	(10,459)	388,146	714,073	(3,590)	710,483
Develop Disabilities	330,879	5,339	336,218	638,357	2,338	640,695
Long-Term Care	618,987	10,326	629,313	1,359,018	(434)	1,358,584
Income Assistance	653,252	45,388	698,640	1,253,238	55,597	1,308,835
Alcohol & Substance	15,355	(1,038)	14,317	149,402	255	149,657
Medical Assistance	1,167,705	33,322	1,201,027	3,388,786	24,032	3,412,818
Vocational Rehab	15,406	275	15,681	83,643	2,402	86,045
Admin/Support Svcs	46,547	(803)	45,744	83,967	(51)	83,916
Community Svcs Admin	219,837	2,941	222,778	477,867	1,292	479,159
Revenue Collections	35,763	5,646	41,409	214,086	3	214,089
Pymts to Other Agys	30,935	291	31,226	42,659	470	43,129
Total Dept of Social & Health Services:	3,945,485	98,603	4,044,088	9,025,364	112,695	9,138,059
Total Human Services:	**4,786,728**	**96,115**	**4,882,843**	**11,069,479**	**130,469**	**11,199,948**

TOTAL NATURAL RESOURCES

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	**Orig 93-95**	**94 Supp**	**Rev 93-95**
Natural Resources						
State Energy Office	1,518	(30)	1,488	47,176	(783)	46,393
Columbia River Gorge Comm	574	(11)	563	1,116	(22)	1,094
Dept of Ecology	55,625	(2,068)	53,557	261,607	(84)	261,523
WA Pollution Liab Insurance Pro	0	0	0	906	(3)	903
Parks & Recreation	54,130	19,808	73,938	61,751	20,058	81,809
Interagency Comm for Outdoor Re	0	0	0	2,600	16	2,616
Environmental Hearings Office	1,205	156	1,361	1,205	156	1,361
State Conservation Commission	1,670	(9)	1,661	1,872	(9)	1,863
Puget Sound Water Quality Autho	3,059	(63)	2,996	4,207	(86)	4,121
Marine Safety	0	0	0	4,496	(206)	4,290
Dept of Fisheries	55,740	190	55,930	100,082	95	100,177
Dept of Wildlife	10,226	(205)	10,021	109,194	(180)	109,014
Dept of Natural Resources	49,394	(2,400)	46,994	216,718	6,866	223,584
Dept of Agriculture	13,462	1,061	14,523	66,727	1,478	68,205
Total Natural Resources:	**246,603**	**16,429**	**263,032**	**879,657**	**27,296**	**906,953**

TOTAL TRANSPORTATION

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	**Orig 93-95**	**94 Supp**	**Rev 93-95**
Transportation						
Board of Pilotage Commissioners	0	0	0	218	0	218
State Patrol	14,223	(3,598)	10,625	234,382	1,514	235,896
WA Traffic Safety Commission	0	0	0	3,357	0	3,357
Dept of Licensing	6,536	904	7,440	164,674	14,487	179,161
Dept of Transportation	0	0	0	921,037	(1,936)	919,101
County Road Admin Bd	0	0	0	87,924	(22)	87,902
Transp Improvement Bd	0	0	0	211,822	(10)	211,812
Marine Employees' Commission	0	0	0	373	0	373
Transportation Commission	0	0	0	1,637	(33)	1,604
Air Transportation Commission	0	0	0	534	0	534
Total Transportation:	**20,759**	**(2,694)**	**18,065**	**1,625,958**	**14,000**	**1,639,958**

TOTAL PUBLIC SCHOOLS

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	**Orig 93-95**	**94 Supp**	**Rev 93-95**
Public Schools						
State Office Admin	34,414	1,434	35,848	72,201	1,434	73,635
General Apportionment	6,019,646	(12,128)	6,007,518	6,019,646	(12,128)	6,007,518
Pupil Transportation	351,143	(6,257)	344,886	351,143	(6,257)	344,886
School Food Services	6,000	0	6,000	250,886	0	250,886
Handicapped Education	867,311	2,690	870,001	965,995	2,690	968,685
Traffic Safety Education	0	0	0	16,979	0	16,979
Educational Service Districts	9,891	125	10,016	9,891	125	10,016
Levy Equalization	149,596	0	149,596	149,596	0	149,596
Elem/Second School Improve	0	0	0	197,580	0	197,580
Indian Education	0	0	0	370	0	370
Institutional Education	22,869	3,449	26,318	31,417	3,449	34,866
Ed of Highly Capable Students	8,983	(44)	8,939	8,983	(44)	8,939
Education Reform	57,990	18,184	76,174	57,990	18,184	76,174
Federal Encumbrances	0	0	0	51,216	0	51,216
Transitional Bilingual	46,940	117	47,057	46,940	117	47,057
Learning Assist Pgm (LAP)	108,456	(543)	107,913	108,456	(543)	107,913
Block Grants	47,832	(245)	47,587	47,832	(245)	47,587
Compensation Adjustments	22,570	(19,031)	3,539	22,570	(19,031)	3,539
Common School Construct	0	15,250	15,250	0	15,250	15,250
Total Public Schools:	**7,753,641**	**3,001**	**7,756,642**	**8,409,691**	**3,001**	**8,412,692**

TOTAL EDUCATION

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	94 Supp	Rev 93-95	Orig 93-95	94 Supp	Rev 93-95
Higher Education						
Higher Ed Coord Board	130,333	3,593	133,926	140,105	3,593	143,698
Univ of Washington	507,618	(3,488)	504,130	2,027,514	(2,938)	2,024,576
Washington State Univ	292,545	(1,991)	290,554	601,763	(1,991)	599,772
Eastern Washington Univ	72,813	(561)	72,252	126,076	(561)	125,515
Central Washington Univ	66,482	(479)	66,003	113,843	(469)	113,374
The Evergreen State Coll	37,207	(308)	36,899	60,089	(308)	59,781
Joint Ctr for Higher Ed	711	206	917	865	206	1,071
Western Washington Univ	81,618	(530)	81,088	153,469	(530)	152,939
Community & Tech Colleges	676,763	(1,864)	674,899	1,104,194	(1,864)	1,102,330
Total Higher Education:	1,866,090	(5,422)	1,860,668	4,327,918	(4,862)	4,323,056
Other Education						
Compact for Education	0	119	119	0	119	119
School for the Blind	6,862	(7)	6,855	6,888	0	6,888
School for the Deaf	12,566	(9)	12,557	12,606	0	12,606
Work Force Trng & Education	3,517	(70)	3,447	38,666	(70)	38,596
Higher Education Personnel Board	0	0	0	1,898	(1,898)	0
State Library	14,062	110	14,172	18,904	110	19,014
Arts Commission	4,274	22	4,296	5,208	22	5,230
State Historical Society	2,321	4	2,325	2,963	4	2,967
Eastern WA St Hist Society	873	18	891	949	18	967
Total Other Education:	44,475	187	44,662	88,082	(1,695)	86,387
Total Education:	**9,664,206**	**(2,234)**	**9,661,972**	**12,825,691**	**(3,556)**	**12,822,135**

TOTAL SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	Orig 93-95	**94 Supp**	**Rev 93-95**	**Orig 93-95**	**94 Supp**	**Rev 93-95**
Special Appropriations						
Bond Retirement/Interest	765,533	(29,175)	736,358	1,189,781	(24,217)	1,165,564
Special Approps to Governor	13,194	(2,234)	10,960	24,581	1,039	25,620
Belated Claims	0	0	0	0	971	971
Sundry Claims	1,950	36	1,986	1,950	105	2,055
State Employee Compensation Adj	4,093	(14,009)	(9,916)	10,385	(31,112)	(20,727)
Agency Loans	7,380	(2,830)	4,550	7,380	(2,830)	4,550
Retirement Contributions	169,979	0	169,979	169,979	0	169,979
Total Special Appropriations:	**962,129**	**(48,212)**	**913,917**	**1,404,056**	**(56,044)**	**1,348,012**

1994 Supplemental Capital Budget
Legislative Overview

NEW APPROPRIATIONS

The 1994 supplemental capital budget reduces the amount of new appropriations made in the 1993-95 capital budget from $1,713 million to $1,699 million for a net reduction of $13.7 million. The amount of general fund supported bonds increases by $17.2 million while other funding sources are reduced by $30.9 million. The increase in general fund supported bonds is composed of numerous reductions which are offset by an increase of $37 million to support common school construction. This funding is necessary due a downturn in the common school timber revenue forecast which fell by a total of $52.3 million in the period between the passage of the original 1993-95 capital budget and the 1994 supplemental capital budget. The supplemental capital budget appropriation of $37 million, combined with a general fund supplemental operating budget appropriation of $15.25 million, replaced the lost timber revenues for school construction. (see also Substitute Senate Bill 6244, section 516; chapter 6, Laws of 1994, 1st ex. sess.)

REAPPROPRIATIONS

The supplemental capital budget made numerous adjustments to update the 1993-95 reappropriations. Reappropriation adjustments fall into two categories: technical adjustments to reflect updated data on unspent funds remaining from previous appropriations; and policy reductions that reflect a decision to eliminate or reduce the funds available for an existing project. The 1994 supplemental capital budget made policy reductions to reappropriations totalling $4.9 million including $1.1 million in general fund supported bonds. These 1994 policy reappropriation reductions are in addition to the $33 million in policy reappropriation reductions enacted during the 1993 session.

FUNDING SOURCES

	1993-95 Budget	1994 Supplemental	1993-95 Total
NEW APPROPRIATIONS:			
General Fund Debt Limit Bonds	$935,562,564	$17,221,595	$952,784,159
Non Debt Limit Bonds	21,500,000	0	21,500,000
Other Funding Sources	756,366,690	(30,902,615)	725,464,075
Total:	$1,713,429,254	($13,681,020)	$1,699,748,234
REAPPROPRIATIONS – POLICY REDUCTIONS:			
General Fund Debt Limit Bonds	($33,020,513)	($1,120,000)	($34,140,513)
Non Debt Limit Bonds	0	0	0
Other Funding Sources	0	(3,833,327)	(3,833,327)
Total:	($33,020,513)	($4,953,327)	($37,973,840)
EFFECTIVE TOTAL:			
General Fund Debt Limit Bonds	902,542,051	16,101,595	918,643,646
Non Debt Limit Bonds	21,500,000	0	21,500,000
Other Funding Sources	756,366,690	(34,735,942)	721,630,748
Total:	1,680,408,741	(18,634,347)	1,661,774,394

FUNCTIONAL AREAS

The supplemental capital budget was divided among the following functional areas of state government. It should be noted that there is a shift of $20 million in appropriation authority for the Bothell Branch campus from the University of Washington to the Office of Financial Management. This shift causes the apparent large increase in General Government capital funding. In reality, those funds are still earmarked for Higher Education.

	1993-95 Budget	1994 Supplemental	1993-95 Total
NEW APPROPRIATIONS:			
General Government	71,674,548	$25,391,046	$97,065,594
Human Services	298,661,682	(8,084,865)	290,576,817
Natural Resources	485,857,578	(5,836,000)	480,021,578
Education	271,405,203	(15,265,200)	256,140,003
Higher Education	585,830,243	(9,886,001)	575,944,242
Total:	$1,713,429,254	(13,681,020)	$1,699,748,234

STATUTORY CITATIONS

The supplemental capital budget passed as Substitute Senate Bill 6243 and became chapter 308, Laws of 1994. No additional bond authorization legislation was necessary to support the supplemental appropriations.

The legislature also passed Engrossed Substitute House Bill 2237 (chapter 219, Laws of 1994) which continues the legislature's ongoing efforts to improve the capital budget process and management of state facilities. For more information on SHB 2237, see the 1994 Legislative Report.

1994 Supplemental Capital Budget

New Projects & Reprioritizations

	GOVERNOR		LEGISLATURE		DIFFERENCE	
	State Bonds	Other Funds	State Bonds	Other Funds	State Bonds	Other Funds
GENERAL GOVERNMENT						
Office of Financial Management						
New Higher Education Site (from UW)	23,000,000		20,710,000		(2,290,000)	
Dept. of Community Development						
Housing Assistance - Dev. Disabilities			3,000,000	1,000,000	3,000,000	1,000,000
Housing Assistance - Youth Shelters			1,000,000	1,000,000	1,000,000	1,000,000
Total:	0	0	4,000,000	2,000,000	4,000,000	2,000,000
Court of Appeals						
Vault enlargement			(65,000)		(65,000)	
Department of General Administration						
Tumwater Land Acquisition	(334,954)		(334,954)			
Capital Campus Preservation			(2,818,000)	2,818,000	(2,818,000)	2,818,000
Legislative Bldg Preservation			(304,000)	304,000	(304,000)	304,000
Temple of Justice Preservation			(147,000)	147,000	(147,000)	147,000
Office Bldg 2 Preservation			(250,000)	250,000	(250,000)	250,000
Employ Security Bldg Preservation			(74,000)	74,000	(74,000)	74,000
Lacey Light Industrial Park Acquisiti	(1,100,000)		(1,034,000)		66,000	
Facility Collocation (Spokane, Tacoma, Port Angeles)			115,000		115,000	
Total:	(1,434,954)	0	(4,846,954)	3,593,000	(3,412,000)	3,593,000
Military Department						
Statewide Preservation	(52,000)		(52,000)			
Yakima Armory Predesign	52,000		52,000			
Total:	0	0	0	0	0	0
Total General Government:	**21,565,046**	**0**	**19,798,046**	**5,593,000**	**(1,767,000)**	**5,593,000**
HUMAN SERVICES						
Department of Social and Health Services						
Eastern WA Psychiatric Unit			1,000,000		1,000,000	
Western St. Hospital Security Improvements			400,000		400,000	
Maple Lane: Fire Safety/Sewer Improv	470,000		470,000			
Maple Lane: 64 Bed Level One Security	785,600		785,600			
Eagle Lodge Rehabilitation			282,000		282,000	
DJR Master Plan Development	200,000				(200,000)	
Total:	1,455,600	0	2,937,600	0	1,482,000	0

	GOVERNOR		LEGISLATURE		DIFFERENCE	
	State Bonds	Other Funds	State Bonds	Other Funds	State Bonds	Other Funds
Department of Veteran's Affairs:						
Roosevelt Hall: Sprinkler Installation		70,000		70,000		
Retsil Laundry Room Improvements		120,000		90,000	(30,000)	
Soldiers Home HVAC			837,057	(837,057)	837,057	(837,057)
Veterans Home HVAC			1,246,611	(1,246,057)	1,246,611	(1,246,057)
Retsil Heating System	250,000		250,000			
Total:	250,000	190,000	2,333,668	(1,923,114)	2,083,668	(2,113,114)
Department of Corrections						
Monroe Correctional Center Savings			(1,262,068)		(1,262,068)	
Yakima Pre-Release Remodel	240,000		240,000			
Total:	240,000	0	(1,022,068)	0	(1,262,068)	0
Department of Health						
Laboratory Expansion Phase II	(12,470,951)		(12,470,951)			
Drinking Water Testing Program				2,060,000		2,060,000
Total:	(12,470,951)	0	(12,470,951)	2,060,000	0	2,060,000
Total Human Services:	(10,525,351)	**190,000**	**(8,221,751)**	**136,886**	**2,303,600**	**(53,114)**
NATURAL RESOURCES						
Interagency Committee for Outdoor Recreation						
Mt. Spokane Trail Development, Federal Funds		100,000		125,000		25,000
State Parks						
Trustland Transfer Program: Fund Switch			(15,000,000)		(15,000,000)	
Iron Horse Trail			70,000		70,000	
Total:			(14,930,000)		(14,930,000)	
Department of Fisheries						
Fish Rearing Pond Sites		300,000		300,000		
Department of Wildlife						
Gloyd Seeps Hatchery			(608,000)	38,000	(608,000)	38,000
Regional Office Construction			38,000	(38,000)	38,000	(38,000)
Mt St Helens Rearing Ponds (from DOT)			370,000		370,000	
Fishing Access Area Development		(761,000)		(761,000)		
Total:		(761,000)	(200,000)	(761,000)	(200,000)	0
Department of Natural Resources						
Watershed Restoration Partnership Program (transfer of funds & creation of program, see operating budget for appropriation)				10,000,000		10,000,000
Department of Transportation						
Mt St Helens Rearing Ponds (to DoW)			(370,000)		(370,000)	
Total Natural Resources:		(361,000)	**(15,500,000)**	**9,664,000**	**(15,500,000)**	**10,025,000**

1994 Supplemental Capital Budget

	GOVERNOR		LEGISLATURE		DIFFERENCE	
	State Bonds	Other Funds	State Bonds	Other Funds	State Bonds	Other Funds
EDUCATION						
State Board of Education						
Common School Construction: (Fund Switch)	15,250,000	(15,250,000)	37,000,000	(52,300,000)	21,750,000	(37,050,000)
Washington State Historical Society						
Boiler Replacement	25,800		14,000		(11,800)	
Eastern Washington State Historical Society						
Cheney Cowles Museum: Emergency Repair	20,800		20,800			
Total Education:	15,296,600	**(15,250,000)**	**37,034,800**	**(52,300,000)**	**21,738,200**	**(37,050,000)**
HIGHER EDUCATION						
University of Washington						
Branch Campus - Bothell (tranferred to OFM)	(23,000,000)		(23,000,000)	2,290,000		2,290,000
Parrington Hall Renovation				3,513,499		3,513,499
Total:	(23,000,000)		(23,000,000)	5,803,499		5,803,499
Washington State University						
Veterinary Teaching Hospital Equipment	8,950,500		7,110,500		(1,840,000)	
Central Washington University						
Animal Research Facility Law Suit		200,000		200,000		
Hertz Hall Emergency Repairs	125,000		125,000			
Barge Hall Remodel	(125,000)		(125,000)			
Total:	0	200,000	0	200,000		
Total Higher Education:	(14,049,500)	**200,000**	**(15,889,500)**	**6,003,499**	**(1,840,000)**	**5,803,499**
New Appropriations *Statewide Total:*	**12,286,795**	**(15,221,000)**	**17,221,595**	**(30,902,615)**	**4,934,800**	**(15,681,615)**
New Appropriations *Total All Funds:*		**(2,934,205)**		**(13,681,020)**		**(10,746,815)**

Reappropriation Policy Adjustments

	GOVERNOR		LEGISLATURE		DIFFERENCE	
	State Bonds	Other Funds	State Bonds	Other Funds	State Bonds	Other Funds
Department of General Administration						
Highway License Building			(1,050,000)		(1,050,000)	
Energy Office						
Energy Partnerships Reappropriation		(2,000,000)		(2,000,000)		
State Parks and Recreation Commission						
Ocean Beach Access				(286,195)		(286,195)
Westhaven Facility Repair			(70,000)		(70,000)	
Total:			(70,000)	(286,195)	(70,000)	(286,195)
Department of Wildlife						
Grandy Creek Hatchery	(4,000,000)				(4,000,000)	
University of Washington						
Denny Hall Renovation				(1,547,132)		(1,547,132)
Reappropriation Policy						
Adjustments Total:	(4,000,000)	**(2,000,000)**	**(1,120,000)**	**(3,833,327)**	**2,880,000**	**(1,833,327)**
New Appropriations and Reappropriation Policy Adjustments - Effective Total						
Effective Statewide Total:	8,286,795	(17,221,000)	16,101,595	(34,735,942)	7,814,800	(17,514,942)
Effective Statewide Total All Funds:		**(8,934,205)**		**(18,634,347)**		**(9,700,142)**

1993-95 Supplemental Transportation Budget

ESSB 6084 – C 303 L 94
Agency Summary
(Dollars in Thousands)

Agency	1993-95 Original	1994 Supp.	1993-95 Revised	Percent Change
Department of Transportation	$2,698,277	$55,060	$2,753,337	2.0%
State Patrol	227,416	(539)	226,877	-0.2%
Transportation Improvement Board	211,822	(10)	211,812	0.0%
Department of Licensing	133,980	12,345	146,325	9.2%
County Road Administration Board	87,924	(22)	87,902	0.0%
Traffic Safety Commission	3,357	0	3,357	0.0%
Legislative Transportation Committee	2,644	(53)	2,591	-2.0%
Transportation Commission	1,637	(33)	1,604	-2.0%
Air Transportation Commission	534	0	534	0.0%
Department of Agriculture	418	0	418	0.0%
LEAP Committee	410	0	410	0.0%
Marine Employees Commission	373	0	373	0.0%
Board of Pilotage Commissioners	218	0	218	0.0%
Total Transportation:	$3,369,010	$66,748	$3,435,758	2.0%

1993-95 Supplemental Transportation Budget

ESSB 6084 - C 303 L 94

Fund Balance — Motor Vehicle Fund/Transportation Fund Only

REVENUE AVAILABLE FOR SUPPLEMENTAL APPROPRIATIONS*		
(General Fund/Transportation Fund/Motor Vehicle Fund)		
General Fund Appropriation (one time only)	$93.9 M	
Transportation Fund/Motor Vehicle Fund		
Governor Recommendation Balance (Nov 93 Forecast)	3.3 M	
Repeal of Gasohol Exemption	36.4 M	
Adjustments/Transfers	27.6 M	
Governor veto of MVF appropriation transfer	(4.4 M)	
Total:		$156.8 M
SUPPLEMENTAL APPROPRIATIONS*		
(General Fund/Transportation Fund/Motor Vehicle Fund)		
1993-95 DOT Construction Projects	117.8 M	
Miscellaneous additions	8.5 M	
Miscellaneous reductions	(6.8 M)	
Total:		$119.5 M
AVAILABLE FOR 1995-97 CONSTRUCTION PROJECT COMPLETION		
(Transportation Fund/Motor Vehicle Fund Only)		$37.3 M

* Includes revenue available and appropriations added subsequent to the Governor's Recommended Budget, which included several DOT budget reductions and fund transfers to bring the Motor Vehicle Fund into balance.

1993-95 Supplemental Transportation Budget

ESSB 6084 - C 303 L 94

Budget Highlights

I. DEPARTMENT OF TRANSPORTATION

Restore Category A Preservation	$ 5.8 M
Category C Projects Under Construction	8.0 M
Acceleration of HOV Projects Under Construction (Categories B and C)	13.5 M
Additional Category C Construction Projects	35.5 M
Additional Preliminary Engineering/Right of Way Purchase	27.1 M
Additional HOV Construction Starts	22.9 M
Safety Project Preliminary Engineering/Right of Way Purchase	2.0 M
Increased Seismic Retrofit	3.0 M
Bellingham Fire Expenses	1.7 M
Quillayute Airport Timber Sale	2.0 M
Additional CERB Funding (Governor vetoed language earmarking this funding for racetrack-related infrastructure)	5.0 M
Workforce Safety Program	2.7 M
Public/Private Initiatives	0.3 M
Regional Transit Authority	1.5 M
Special Studies	0.7 M

II. WASHINGTON STATE PATROL

New Users on ACCESS Data Communications System	$0.2 M
Washington Traffic Safety Commission Funding (Governor vetoed transfer of WTSC responsibilities to State Patrol; funding will be used by WTSC through an interagency agreement)	2.8 M
Reductions to Construction Budget	(1.9 M)
Reductions vetoed by Governor:	
Pursuit Vehicle Replacement	(1.2 M)
Cadet Training Staff	(0.2 M)
Commercial Vehicle Enforcement Staff	(0.3 M)
Elimination of Safety Education Officer Program	(1.3 M)
Crime Labs	(0.9 M)

III. DEPARTMENT OF LICENSING

Licensing Application Migration Project (LAMP)	$12.0 M
Reduction of Vehicle Services Staff	(0.4 M)

IV. OTHER AGENCIES

Traffic Safety Commission 2nd year funding ($2.8 M) appropriated to State Patrol (see State Patrol section above)

The respective sovreignty of the state and each federally recognized tribe provide paramount authority for that party to exist and to govern. The parties share in their relationship particular respect for the values and culture represented by tribal governments. Further, the parties share a desire for a complete accord between the State of Washington and the federally recognized tribes in Washington reflecting a full government-to-government relationship and will work with all elements of state and tribal governments to achieve such an accord.

--Centennial Accord between the
Federally Recognized Indian Tribes
in Washington State
and the State of Washington,
August, 1989

■

Photo top, Tom Anderson, Shoalwater Bay carver, recreates traditional ceremonial masks; below, Michelle Aguilar and Jennifer Scott from the Governor's Office on Indian Affairs, provide state-tribal relations training to state employees.

SECTION III
Indexes and Appendices

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ECOLOGY

FISCAL

LAW AND JUSTICE

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Bill Number To Session Law Table

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INIT 601	State expenditure and taxation limits	C	2	L 94	

HOUSE BILLS

2SHB 1009	Lis pendens filings	C	155	L 94	
SHB 1122	Park/recreation district levies	C	156	L 94	
HB 1133	Unlawful conversion of goods	C	9	L 94	
SHB 1159	Whistleblower protection	C	210	L 94	
ESHB 1182	Retired teachers	C	69	L 94	
2SHB 1235	Partnerships	C	211	L 94	
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2SHB 1457	School competitive bidding	C	212	L 94	
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2ESHB 1471	Crab fishery	C	260	L 94	
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HB 2188	International trade/WA ports	C	75	L 94	
EHB 2190	Housing trust fund/bond proceeds	C	160	L 94	
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EHB 2193	Health care assistant certification	C	76	L 94	
SHB 2197	Victim/witness notification	C	77	L 94	

PV: Partial Veto; E1: First Special Session

ESHB 2198	Juvenile sex offender school attendance	C	78	L 94	
HB 2205	Urban emergency medical service district	C	79	L 94	
2SHB 2210	Community/technical college district 30	C	217	L 94	
SHB 2212	District court judges/number	C	111	L 94	
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HB 2275	Mortgage/rental assistance	C	114	L 94	
SHB 2277	Teacher evaluations	C	115	L 94	
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HB 2369	Cities/commission plan election	C	119	L 94	
SHB 2370	Reinsurance/surplus line insurance	C	86	L 94	
EHB 2376	Sentencing guidelines commission	C	87	L 94	
HB 2377	Optical imaging	C	19	L 94	
SHB 2380	Malpractice insurance	C	102	L 94	
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ESHB 2388	Prevailing wage	C	88	L 94	
EHB 2390	Labor and industries department	C	164	L 94	
HB 2392	Residential burglary	C	121	L 94	
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PV: Partial Veto; E1: First Special Session

HB 2419	Law enforcement medal of honor	C 89 L 94	
SHB 2424	Massage services taxation	C 228 L 94	PV
SHB 2428	Spouses of school district officers	C 20 L 94	
SHB 2430	Midwifery malpractice insurance	C 90 L 94	
ESHB 2434	Public works bids	C 91 L 94	
SHB 2438	Financial institutions department	C 92 L 94	
SHB 2443	Seasonal workers/health benefits	C 4 L 94	
HB 2447	Early childhood education and assistance	C 166 L 94	
SHB 2452	Wine shipments	C 70 L 94	
SHB 2456	Reclassified reforestation land	C 122 L 94	
HB 2477	Property tax administration	C 123 L 94	
HB 2478	Timber/log purchaser reporting	C 229 L 94	
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E2SHB 2510	Regulatory reform	C 249 L 94	PV
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SHB 2529	Adoption processes liability	C 170 L 94	
SHB 2540	Sex offender information	C 129 L 94	
SHB 2541	Newspaper/periodical tax	C 22 L 94	
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HB 2558	Utility/transportation securities	C 251 L 94	
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HB 2562	Delinquent assessment liens	C 24 L 94	
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SHB 2570	Insurance licensing	C 131 L 94	
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SHB 2582	Leasehold excise taxes	C 95 L 94	
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HB 2590	Obsolete RCW references	C 264 L 94	PV
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HB 2593	Highway improvement funding	C 173 L 94	
HB 2601	911 system funding	C 96 L 94	
E2SHB 2605	Higher education	C 234 L 94	

PV: Partial Veto; E1: First Special Session

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SHB 2608	Port property sale	C 26 L 94	
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SHB 2618	Ferry water routes/highways	C 209 L 94	
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HB 2750	Joint operating agencies	C 27 L 94	
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SHB 2771	Fire suppression practice	C 28 L 94	
E2SHB 2798	Public assistance reform	C 299 L 94	PV
HB 2811	State procurement	C 138 L 94	
HB 2812	Building design/energy conservation	C 242 L 94	
SHB 2813	Public works contracts	C 243 L 94	
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C 299 L 94	PV	Public assistance reform	E2SHB 2798
C 300 L 94		State procurement	ESHB 2815
C 301 L 94		Taxation	2SSB 5372
C 302 L 94	PV	Public assistance/businesses	E2SSB 5468
C 303 L 94	PV	Transportation appropriations	ESSB 6084
C 304 L 94		School provisions	ESSB 6155
C 305 L 94		Ready-mix mixer trucks	SB 6205
C 306 L 94	PV	Quality award council	SB 6220
C 307 L 94		Agricultural and forest lands	ESSB 6228
C 308 L 94		Capital budget	SSB 6243
C 309 L 94		Health care authority duties	SSB 6307

FIRST SPECIAL SESSION

C 1 L 94	E1	Distressed area investments	EHB 2664
C 2 L 94	E1	Small business gross receipt tax	SHB 2671
C 3 L 94	E1	Youthbuild violence prevention	ESHB 2699
C 4 L 94	E1	County coroner salaries	SB 6055
C 5 L 94	E1	High-tech business tax incentives	E2SSB 6347
C 6 L 94	E1 PV	Operating budget	ESSB 6244
C 7 L 94	E1 PV	Violence reduction programs	E2SHB 2319
C 8 L 94	E1	Senior citizen property tax relief	EHB 2670
C 9 L 94	E1 PV	Boards, commissions, councils	ESHB 2676
C 10 L 94	E1	B&O surtax repeal	SB 6606

PV: Partial Veto; E1: First Special Session

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Jim Jesernig, Director

Department of Community, Trade, and Economic Development
Mike Fitzgerald, Director

Department of Personnel
Dennis Karras, Director

Energy Office
Judith Merchant, Director

Department of Financial Institutions
John L. Bley, Director

Office of Financial Management
Ruta E. Fanning, Director

Department of Fish and Wildlife
Robert Turner, Director

Lottery Commission
Evelyn P. Yenson, Director

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Scott D. Oki, Member, Board of Regents

Washington State University
Richard R. Albrecht, Member, Board of Regents
Carmen Otero, Member, Board of Regents

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Central Washington University
Gwen Chaplin, Member, Board of Trustees
Wilfred Woods, Member, Board of Trustees

Western Washington University
Grace T. Yuan, Member, Board of Trustees

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Ann Daley, Member
Larry L. Hanson, Member
Mike McCormack, Member
David Shaw, Member

Higher Education Facilities Authority
Loren Anderson, Member

State Board for Community and Technical Colleges
Barney A. Goltz, Member
William Selby, Member
Joan Yoshitomi, Member

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Karen Gates-Hildt, Member, Board of Trustees
Julie Johnson, Member, Board of Trustees
Roger Reidel, Member, Board of Trustees

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Linda Sprenger, Member, Board of Trustees

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Robert Kozuki, Member, Board of Trustees

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Joseph Enbody, Member, Board of Trustees

Lower Columbia Community College District No. 13
Myrna J. Emerick, Member, Board of Trustees

Clark Community College District No. 14
Victor H. Clausen, Member, Board of Trustees

Wenatchee Valley Community College District No. 15
Alicia Nakata, Member, Board of Trustees

Yakima Valley Community College District No. 16
Ricardo R. Garcia, Member, Board of Trustees

Big Bend Community College District No. 18
Harry Yamamoto, Member, Board of Trustees

Columbia Basin Community College District No. 19
Darrell Beers, Member, Board of Trustees
Charles Michener, Member, Board of Trustees

Grays Harbor Community College District No. 2
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Kathleen Quigg, Member, Board of Trustees

Walla Walla Community College District No. 20
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Whatcom Community College District No. 21
Robert Christenson, Member, Board of Trustees
Teri Treat, Member, Board of Trustees

Tacoma Community College District No. 22
Robert Yamashita, Member, Board of Trustees

South Puget Sound Community College District No. 24
Veltry H. Johnson, Member, Board of Trustees
Carolyn Keck, Member, Board of Trustees
Edward Y. Mayeda, Member, Board of Trustees

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Gina Vicente, Member, Board of Trustees

Skagit Valley Community College District No. 4
John M. Meyer, Member, Board of Trustees

Everett Community College District No. 5
Robert J. Bavasi, Member, Board of Trustees

Shoreline Community College District No. 7
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Bellevue Community College District No. 8
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Ruthann Kurose, Member, Board of Trustees

Highline Community College District No. 9
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Jean A. Batchelder, Member, Board of Trustees
Fredrica Denton, Member, Board of Trustees

Renton Technical College District No. 27
A.M. Jorgensen, Member, Board of Trustees

Bates Technical College District No. 28
Roland Dewhurst, Member, Board of Trustees

Clover Park Technical College District No. 29
Janet Kovatch, Member, Board of Trustees
J.F. Truebenbach, Member, Board of Trustees

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Fish and Wildlife Commission
Pat McMullen, Member
Lisa Pelly, Member
Sally J. Van Niel, Member

Forest Practices Appeals Board
Robert Quoidbach, Member

Housing Finance Commission
Busse Nutley, Member

Board of Industrial Insurance Appeals
Robert L. McCallister, Member

Marine Employees' Commission
Henry Chiles, Jr., Chair

Pacific NW Electric Power and Conservation Planning Council
Dr. Kenneth Casavant, Member

Personnel Board
Eugene Matt, Member

Board of Pharmacy
Joyce Gillie, Member
Karen Kiessling, Member
SuAnn M. Stone, Member
G. Kirby White, Member

Sentencing Guidelines Commission
Robert Lasnik, Chair
Napolean Caldwell, Member
Seth Dawson, Member
Jenny Durkan, Member
L. Daniel Fessler, Member
Pleas Green, Member
Susan Hahn, Member
Marcus M. Kelly, Member
Norm Maleng, Member
Ricardo Martinez, Member
Sally Storm, Member

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Wendy Pava, Member, Board of Trustees
Terry Robertson, Member, Board of Trustees
Cynthia L. Roney, Member, Board of Trustees

State School for the Deaf
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Tax Appeals Board
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Lawrence Kenney, Member

Transportation Commission
Richard G. Thompson, Jr., Member

Utilities and Transportation Commission
Richard Hemstad, Member

Washington Health Services Commission
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Donald A. Brennan, Member
Tom L. Hilyard, Member
Pam MacEwan, Member
George W. Schneider, Member

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Dean Lydig, Member
John C. McGlenn, Member
Norman F. Richardson, Member
James M. Walton, Member
Kelly White, Member

Work Force Training and Education Coordinating Board
Karen Carter, Member

1994 Regular Session of the Fifty-Third Legislature

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Ron Meyers ..... Speaker Pro Tempore
W. Kim Peery ..... Majority Leader
Bill Grant ..... Democratic Caucus Chair
Tim Sheldon ..... Assistant Majority Leader
Jeanne Kohl ..... Majority Whip
Grace Cole ..... Assistant Majority Whip
Tracey Eide ..... Assistant Majority Whip
Hans Dunshee ..... Assistant Majority Whip
Sandra Romero ..... Assistant Majority Whip
Val Ogden ..... Democratic Caucus Vice Chair

Republican Leadership

Clyde Ballard ..... Minority Leader
Randy Tate ..... Republican Caucus Chair
Elmira Forner ..... Minority Floor Leader
Jeannette Wood ..... Minority Whip
Steve Fuhrman ..... Assistant Minority Floor Leader
Bill Reams ..... Assistant Minority Floor Leader

Marilyn Showalter ..... Chief Clerk
Karen Parkhurst ..... Assistant Chief Clerk
Ron Finley ..... Supervisor of Security and Facilities

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Al Williams ..... Vice President Pro Tempore
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Brad Hendrickson ..... Deputy Secretary
Richard C. Fisher ..... Sergeant at Arms

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Sid Snyder ..... Caucus Chair
Harriet A. Spanel ..... Majority Floor Leader
Kathleen Drew ..... Majority Whip
Margarita Prentice ..... Caucus Vice Chair
Betti L. Sheldon ..... Majority Assistant Floor Leader
Valoria H. Loveland ..... Majority Assistant Whip

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Ann Anderson ..... Caucus Chair
Irv Newhouse ..... Republican Floor Leader
Bob Oke ..... Republican Whip
Emilio Cantu ..... Republican Deputy Leader
Linda A. Smith ..... Caucus Vice Chair
Gary A. Nelson ..... Republican Assistant Floor Leader
Pam Roach ..... Republican Assistant Whip

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June Leonard
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Barry Sehlin
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Val Stevens
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Mike Riley
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