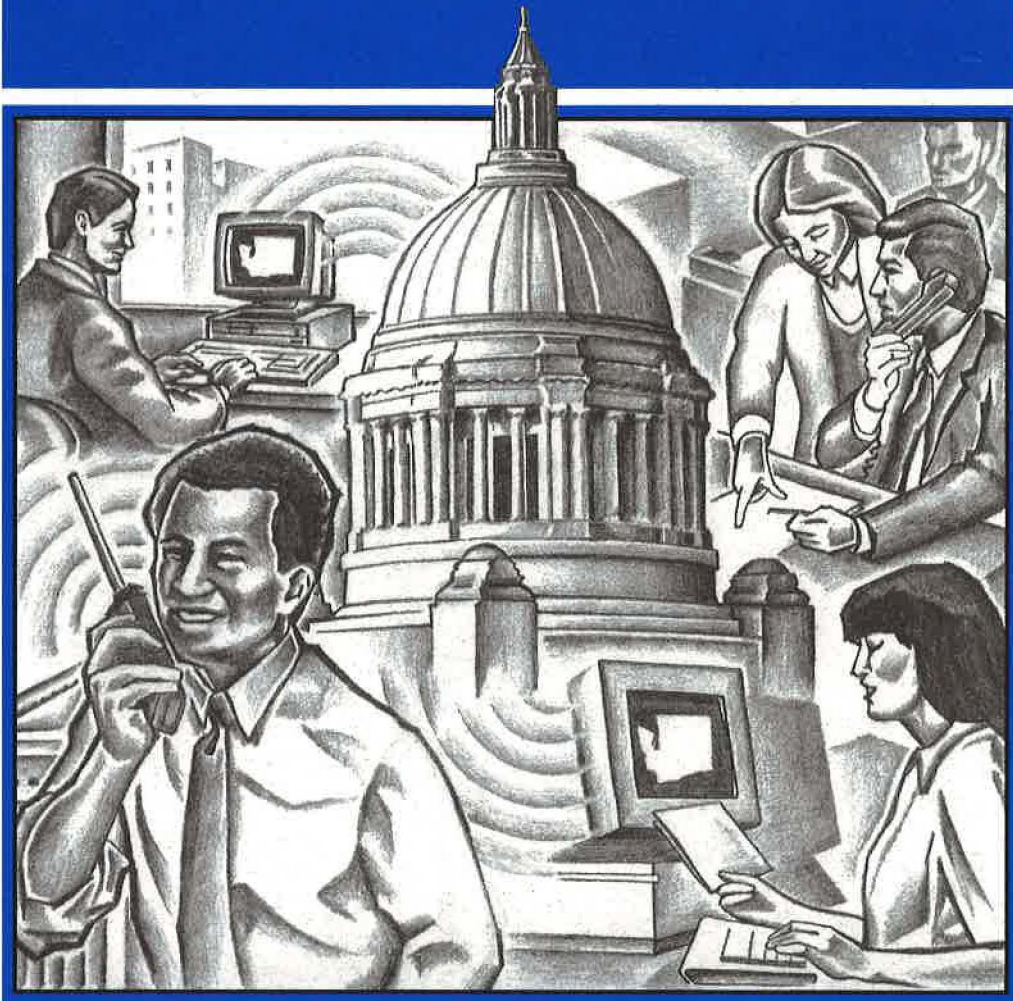


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1995 FINAL LEGISLATIVE REPORT



FIFTY-FOURTH WASHINGTON STATE LEGISLATURE

1995 Regular Session
First Special Session
Second Special Session

1995 FINAL LEGISLATIVE REPORT

The final edition of the 1995 Legislative Report is available from:

Legislative Bill Room
Legislative Building
P. O. Box 40600
Olympia, WA 98504-0600

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P.O. Box 40482
Olympia, WA 98504-0482
(360) 786-7400



Advancements in communication technology have dramatically changed the methods by which people exchange ideas and information.

Cellular phones, fax machines, computer networking, electronic mail, and video conferencing are just a few examples of technology that can rapidly "connect" people in ways that transcend the limitations of the past.

This electronic connectivity has enhanced the ability of people and organizations to work, communicate, and gather information.

FIFTY-FOURTH WASHINGTON STATE LEGISLATURE

1995 Regular Session

First Special Session

Second Special Session

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Electronic mail is a relatively new communication tool that is extending its reach with the expansion of computer networks and the increasing number of computer users joining online services.

Employees of the Washington State Legislature are linked by a network of computers on the Washington Legislative Information System (WALIS.) This network provides a number of features for users including an electronic mail system which instantly transmits messages and documents to other people and groups on the network.

WALIS links approximately 800 computers and transmits thousands of messages yearly.

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Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
<i>1995 Regular Session (January 9 - April 23)</i>					
House	2,100	203	5	15	198
Senate	1,072	208	6	19	202
<i>1995 First Special Session (April 24 - May 23)</i>					
House	12	6	0	2	6
Senate	10	15	1	2	14
<i>1995 Second Special Session (May 24 - May 25)</i>					
House	2	19	5	3	14
Senate	2	4	0	0	4
TOTALS	3,198	455	17	41	438

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
<i>1995 Regular Session (January 9 - April 23)</i>		
House	51	4
Senate	41	8
<i>1995 First Special Session (April 24 - May 23)</i>		
House	2	0
Senate	3	1
<i>1995 Second Special Session (May 24 - May 25)</i>		
House	1	0
Senate	1	0
TOTALS	99	13
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Gubernatorial Appointments	Referred	Confirmed
<i>1995 Regular Session (January 9 - April 23)</i>	153	90
<i>1995 First Special Session (April 24 - May 23)</i>	3	12
<i>1995 Second Special Session (May 24 - May 25)</i>	2	12



Washington Interactive Television (WIT) offers state agencies, elected officials, and educators statewide interactive video conferencing services that bring together remote meeting sites from around the state.

Currently, meetings can be held in 13 locations around the state and linked together by interactive satellite television. This technology encourages citizen participation in state government, and saves time and money normally spent on travel.

WIT is a service of the Department of Information Services in partnership with the Office of the Superintendent of Public Instruction and the Educational Service Districts.

SECTION I Legislation Passed

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Increasing penalties for armed crimes.

By People of the State of Washington.

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

Background: In recent few years, the public has become increasingly concerned about violent crime, and especially about crimes involving firearms. Current laws provide for enhanced penalties for certain crimes committed with a deadly weapon, which includes a firearm. However, it is felt that penalties for crimes involving firearms should be increased, and that the deadly weapon sentence enhancements should apply to more crimes. There is also concern that judges be held accountable for their sentencing practices.

Washington Citizens for Justice has sponsored and obtained signatures for an initiative to the legislature addressing these and other concerns. The initiative is entitled the "Hard Time for Armed Crime Act."

Summary: Sentence enhancements for crimes committed with a firearm or other deadly weapon are lengthened. The enhancements apply to all felony convictions, with the exception of a few crimes that necessarily involve a firearm. The sentence for a crime committed while armed with a firearm is enhanced by an additional five years for class A felonies, three years for class B felonies, and 18 months for class C felonies. The sentence for a crime committed while armed with a deadly weapon is enhanced by an additional two years for class A felonies, one year for class B felonies, and six months for class C felonies. No earned early release is allowed on the enhanced portion of the sentence, and the enhancement cannot be served concurrently with any other sentence. The enhancements are doubled for repeat offenders.

The Sentencing Guidelines Commission is required to track sentencing information by judge, and provide a comparison of each judge's sentencing practices with the standard sentence range.

Two degrees of unlawful possession of a firearm are created. First degree possession, a class B felony, is committed if a person possesses a firearm after conviction for any serious offense, residential burglary, first degree reckless endangerment, or a class A or B felony level drug offense. Second degree unlawful possession, a class C felony, is committed if a person possesses a firearm after a conviction for any other felony drug offense, or other felony involving a firearm, a conviction for any domestic violence or harassment offense, three convictions within five years for driving a motor vehicle while intoxicated, involuntary commitment for mental health treatment, or unlawful possession by a person under 18 years of age.

The crime of possession of a stolen firearm is removed from the theft of a firearm statute and made a separate class B felony crime. The seriousness level for the crime of reckless endangerment in the first degree is increased from level 5 to level 7.

The death penalty may be imposed upon conviction of aggravated first degree murder if the murder was gang-related, involved a drive-by shooting, or was committed to avoid prosecution as a persistent offender.

Votes on Final Passage:

Senate	39	5
House	88	6

Effective: July 23, 1995

I 164

C 98 L 95

Private property regulation.

By People of the State of Washington.

Background: Constitutional Provisions. The state Constitution includes several provisions relating to governmental actions and property.

One type of state constitutional provision generally precludes governments from giving or lending anything of value to persons or private entities. (See Article VIII, Sections 5 and 7, Washington State Constitution.) The federal Constitution does not include similar provisions.

Another type of state constitutional provision prohibits governments from taking property for public use without paying just compensation and prohibits governments from depriving a person of property without due process of law. (See Article I, Section 16, Washington State Constitution, which relates to eminent domain and actions that are commonly called a "taking" of private property; and Article I, Section 12, Washington State Constitution, which is the Privileges and Immunities provision and includes what is commonly known as the Due Process and Equal Protection provisions.) The federal Constitution includes similar provisions.

In a variety of lawsuits, courts have determined whether a particular governmental action is an unconstitutional "taking" of private property. Initially, courts only considered an actual physical occupation of land to constitute an unconstitutional "taking" of private property. However, in various decisions this century, courts have expanded restrictions contained in these constitutional provisions and held that a regulation of private property could constitute an unconstitutional "taking" of private property. This newer type of taking is called a "regulatory taking" of private property or an "inverse condemnation."

Among other factors, a court considers the following when determining if a regulation is an unconstitutional "taking" of private property:

- Whether the regulation destroys a fundamental property right, such as the right to possess the property, exclude others from the property, or dispose of the property.
- Whether the regulation imposes substantial limitations on the use of property and, if so, the balance between the purpose of the regulation and the extent of the reduction in use of and the economic impact on the property.
- The balance between the extent to which the regulation interferes with the property owner's reasonable investment-backed development expectations and the government's interest in promulgating the regulation.
- If the regulation prohibits all economically viable or beneficial uses of the property, whether the regulation enforces nuisance law or other preexisting limitations on the use of the property.

Generally, the entire parcel as a whole is considered in the analysis and not individual portions of the parcel.

State and Local Regulations. State law and local ordinances impose a variety of regulations on private property, including requirements to obtain a building permit authorizing the construction of a building, controls on the division of land, restrictions on land uses, and restrictions on causing air or water pollution. In addition, the State Environmental Policy Act requires that state agencies and local governments determine if a proposed governmental action may significantly affect the quality of the environment.

Many of these regulatory programs involve issuing permits or altering a zoning ordinance to authorize a proposed activity and the applicant is required to file plans, maps, or studies describing the proposed activity.

A county and city zoning ordinance may allow a variety of differing land uses in different areas or zones designated within its jurisdiction. Other restrictions limit construction activities that are allowed on a portion of a parcel, including "set back" requirements restricting how close to a boundary line a building may be located and "lot coverage" restrictions on the percentage of a parcel that may be covered with impervious surfaces.

Process to Determine if a Regulation Constitutes an Unconstitutional "Taking" of Private Property. The state Growth Management Act requires the Attorney General to develop a recommended "process" enabling state agencies and local governments to evaluate proposed regulations or administrative actions to assure that such actions do not result in a violation of the constitutional provisions prohibiting "takings."

This "process" is a summary of case law and includes factors that should be reviewed by a government when considering the adoption or implementation of regulations. The Attorney General reports in these materials that most governmental regulations do not constitute unconstitutional "takings" of private property.

Public Nuisances. State law defines nuisances and public nuisances.

A nuisance is an unlawful act, or failure to perform a duty, which: (a) annoys, injures or endangers the comfort, repose, health or safety of others; (b) offends public decency; (c) unlawfully obstructs the passage on any body of water, park, road or street; or (d) in any way renders other persons insecure in life or in the use of property. A party who is injured by a nuisance may bring a lawsuit to enjoin the nuisance.

A public nuisance is a nuisance that affects equally the rights of an entire community or neighborhood. In addition, several statutes describe particular activities or actions that constitute a public nuisance. Among others, statutes declare the following to be public nuisances: (a) allowing an animal carcass, offal, filth, or noisome substance to remain in any place to the prejudice of others; (b) obstructing or encroaching upon a public highway; (c) establishing a powder magazine near a city or town at a point different from that appointed by the city or town governing body or within 50 rods of any occupied dwelling; (d) using any building for a trade, manufacture, or employment that is occasioned by obnoxious exhalations, offensive smells, or otherwise is offensive or dangerous to the health of people or the public; (e) premises where liquor is sold to the public in contravention of law; and (f) places where vagrants resort.

Appropriate public officials, and any person who is specially injured by a public nuisance, may bring a lawsuit to enjoin a public nuisance. In addition, any person who is specially injured by a public nuisance may abate or destroy the public nuisance if such action may be committed without a breach of the peace or doing unnecessary injury.

Assessed Valuation for Property Tax Purposes. The determination of the assessed valuation, or "true and fair" value, of property by a county assessor for purposes of imposing property taxes must be consistent with land use regulations and other governmental policies and practices that are in effect when the appraisal is made.

Summary: New Statutory Standard. A new statutory standard is established to determine if governmental regulations constitute a "taking" of private property for which compensation must be paid. This new statutory standard is broader than the court-established standards determining whether regulations constitute an unconstitutional "taking" of private property. Many regulations that do not constitute an unconstitutional "taking" of private property would appear to constitute a statutory "taking" of private property.

Except for regulations precluding a public nuisance, any governmental regulation limiting the use or development of a parcel of private property "for public benefit" is considered to be a statutory "taking" of property for which the government imposing the regulation must pay compensation. The term "for public benefit" is not defined. The same compensatory requirement applies to any govern-

mental regulation limiting the use or development of a portion of a parcel of private property.

Private property includes land, any interest in land, any proprietary water right, and any crops, forest products, or resources capable of being harvested or extracted that are protected by the Fifth or 14th Amendments to the United States Constitution.

The compensation that is required to be paid is the reduction in fair market value of the parcel, or portion of the parcel, attributable to the regulation or restriction. Compensation must be paid within three months of when the regulation or restraint occurs. A government may not deflate the value of the property by suggesting or threatening a designation to avoid paying full compensation to the owner.

A 10 year statute of limitations is established during which a lawsuit may be instituted for compensation under these provisions. A prevailing plaintiff is entitled to recover the costs of litigation, including reasonable attorneys' fees.

The state must compensate another governmental entity for its liability under these provisions if a state law or state agency mandates that the other government take the action causing the liability.

Analysis and Delay. A government is prohibited from adopting a regulation of private property or imposing a restraint of land use unless the government prepares a statement containing a full analysis of the total economic impact on private property. The analysis must be available to the public at least 30 days prior to adopting the regulation or imposing the restraint.

If the government chooses to adopt a proposed regulation of private property or restraint of land use, only the regulation or restraint with the least possible impact on private property that accomplishes the necessary public purpose may be adopted.

Access to Property. A government must either provide alternative access to property at its own expense, or purchase inaccessible property, if the government places restrictions on the use of public or private property that deprive a landowner of access to his or her property.

Plans, Maps, Studies, etc. A government may not require a private property owner to provide or pay for any studies, maps, plans, or reports used in decisions to consider "restricting the use of private property for public use." The term "restricting the use of private property for public use" is not defined.

Assessed Valuation. The county assessor is required to adjust property valuation for tax purposes and notify the owner of the new tax valuation, which must be reflected and identified in the next tax assessment notice.

Votes on Final Passage:

Senate	28	20
House	69	27

Effective: July 23, 1995

I 607

C 1 L 95

Denturists regulated.

By People of the State of Washington.

Background: The practice of denturity has never been licensed in this state. Denturity involves making, altering, reproducing and repairing dentures. Denturists have only been able to legally supply consumers with dentures by working under the license of a dentist. Dentists are the only professionals able to legally make, repair and install dentures.

Denturists tried to receive licensure from the state in 1985 but their proposed legislation was referred for a Sunrise Review which recommended against licensure. The Sunrise Review proposed certification for denturists, and over the next few years several attempts to pass this legislation failed.

Summary: The practice of denturity is regulated by the state, and only persons with licenses issued by the Department of Health may practice. (Denturity is also within the dental scope of practice.) The practice of denturity includes taking impressions and making, placing, or supplying a denture. A board of Denture Technology is established with seven members appointed by the Secretary consisting of four denturists, one dentist, and two public members. The board examines and determines qualifications of applicants for licensure, has rule-making authority, sets fees, and acts as the disciplining authority.

Applicants for licensure may qualify by several alternatives. These include: being currently licensed in another state or federal enclave with substantially equivalent practice standards; or having graduated from a formal denturism program of at least two years duration and taking an exam; or taking a training course approved by the board, passing the exam and practicing for at least 4000 hours or five years.

The initiative establishes denturism, when practiced by denturists, as a mandated insurance benefit if the policy covers denturism performed by dentists.

Effective: December 8, 1994

SHB 1001

C 6 L 95

Exempting institutions of higher education from certain expenditure requirements.

By House Committee on Higher Education (originally sponsored by Representatives Carlson, Sommers, Brumsickle, Jacobsen, Foreman, Silver, Schoesler, Kessler, Blanton, Morris, Dyer, Lisk, Van Luven, Ballasiotes, Reams, Horn, Sehlin, Chandler, Cooke, L. Thomas, B. Thomas, Scott, Tokuda, Benton, Costa, Delvin, Mason, Thompson, Beeksma, Brown, Backlund, Pennington, Mastin, Mitchell, Cole, Quall, Basich, Smith, Mulliken, Huff, Talcott and Chopp).

House Committee on Higher Education
Senate Committee on Higher Education

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 raised 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	93	0
Senate	44	1

Effective: April 12, 1995

E2SHB 1009

C 390 L 95

Establishing a commission on pesticide registration.

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Skinner, Kremen, Delvin, Schoesler, Mastin, Chappell, Grant, Foreman, D. Schmidt, Boldt, Clements and Stevens).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Agriculture & Agricultural Trade & Development

Background: FIFRA. The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act, or FIFRA. In general, a pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S.

Environmental Protection Agency (EPA). In November 1984, the studies and data required to be submitted in support of the registration of a pesticide were expanded. With the 1988 amendments to FIFRA, Congress required, with certain limited exceptions, that pesticides originally registered before November 1, 1984, be reregistered under the data requirements which apply to pesticides registered after that date. In 1988, approximately 44,000 pesticide products with 611 active ingredients were registered for use. By October 1991, there were approximately 20,000 registered products with 405 active ingredients.

Minor crops. In general, pesticides are considered to be for minor crops or minor uses in the context of the federal pesticide registration process if the acreage on which the pesticides would potentially be used is minor on a national scale. Crops such as apples which are important to this state's agricultural economy are considered to be "minor" crops in this context.

Delaney Clause. The Federal Food, Drug and Cosmetic Act prohibits the sale of a raw agricultural commodity which bears or contains a pesticide chemical that is unsafe within the meaning of Section 408 of the act or food which contains a food additive that is unsafe within the meaning of Section 409 of the act.

Under Section 408 of the act, the EPA is permitted to set tolerances for the presence of pesticide residues in or on raw agricultural commodities. These tolerances must protect the public health. The administrator of the EPA is expressly authorized to establish the tolerance level at a zero level if the scientific data does not justify the establishment of a greater tolerance.

Section 409 of the act contains the Delaney Clause, which states, in part, that "... no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal" The Delaney Clause provides a zero tolerance for carcinogens, regardless of their concentration. However, in a 1992 decision, the U.S. Court of Appeals (Ninth Circuit) noted that if a tolerance for a pesticide residue has been established for a pesticide residue in or on a raw agricultural commodity, another provision of the act allows for the 'flow-through' of the residue to processed foods, even when the pesticide may be a carcinogen. This flow-through is allowed, however, only to the extent that the concentration of the pesticide in the processed food does not exceed the concentration allowed in the raw food. In its 1992 decision, the circuit court struck down rules of the EPA which would have permitted concentrations of cancer-causing pesticides residues greater than that tolerated for raw foods so long as the particular substances posed only a 'de minimis' risk of actually causing cancer. Enforcement of the Delaney Clause is likely to result in the cancellation of the registration of additional pesticide uses.

Food and Environmental Quality Lab. State legislation enacted in 1991 created the Food and Environmental Quality Laboratory operated by Washington State University (WSU) in the Tri-Cities to conduct pesticide residue stud-

ies regarding food, the environment, and safety. One of its responsibilities is evaluating regional requirements for minor crop registrations through the federal InterRegional Research Project Number 4 (IR-4) program.

Summary: A Commission on Pesticide Registration is created. It is to provide guidance to WSU's Food Safety and Environmental Quality Lab in the area of pesticide registrations for minor crops and minor uses and in regard to the availability of pesticides for emergency uses. Use of state monies appropriated to WSU specifically for studies or activities regarding pesticide registrations must be approved by the commission. Such an appropriation may be used for: (1) conducting studies concerning the registration of pesticides for minor crops and minor uses and the availability of pesticides for emergency uses; (2) a program for tracking the availability of pesticides for such crops and uses; and (3) the support of the commission and its activities. With the approval of the commission, these monies may be used for studies conducted by WSU's lab or by other qualified labs, researchers, or contractors. The purchase of proprietary information is expressly authorized. Before approving a residue study, the commission must ensure that there is registrant support and willingness or ability to add the crop to its label. Not less than 25 percent of such appropriations must be dedicated to studies concerning the registration of pesticides for crops which are not among the top 20 agricultural commodities produced in the state.

The commission is made up of 12 voting members appointed by the Governor. One voting member is appointed from one of each of 12 specified segments of the state's agricultural industry and must be nominated by an association or commodity commission from that segment of the industry. Nominations for initial appointments must be submitted by September 1, 1995, and the initial appointments must be made by October 15, 1995. The voting members serve three-year terms, although the first set of terms are for one, two and three years to provide staggered terms for the members. A member may be removed from the commission for incapacity, incompetence, neglect of duty, or malfeasance. The commission is to select a chair from its voting members. The commission also has non-voting members, one of whom is the coordinator of the IR-4 project at WSU.

WSU's Lab is directed to provide a program for tracking the availability of effective pesticides for minor crops, minor uses and emergency uses. The commission must encourage agricultural organizations to provide assistance for studies regarding pesticide registrations and emergency uses and must ensure that the activities of the lab are coordinated with the work of other labs. Each biennium, the commission must prepare a contingency plan for providing studies that will address emergency conditions that may arise. The commission may receive gifts and grants for its use.

The commission must submit a report to the Legislature by December 15, 2002, and must be evaluated by legislative committees during the following legislative session.

Votes on Final Passage:

House	96	0	
Senate	39	0	(Senate amended)
House	89	0	(House concurred)

Effective: July 23, 1995

ESHB 1010

PARTIAL VETO

C 403 L 95

Implementing regulatory reform.

By House Committee on Government Operations (originally sponsored by Representatives Reams, Horn, Lisk, Cairnes, Dyer, Van Luven, Ballasiotes, Buck, Casada, D. Schmidt, B. Thomas, Chandler, L. Thomas, Brumsickle, Sehlin, Sherstad, Carlson, Benton, Skinner, Kremen, Hargrove, Cooke, Delvin, Schoesler, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Hickel, Backlund, Crouse, Elliot, Pennington, Mastin, Carrell, Mitchell, K. Schmidt, Chappell, Basich, Grant, Smith, Robertson, Foreman, Honeyford, Pelesky, Blanton, Koster, Lambert, Mulliken, Boldt, McMorris, Clements, Fuhrman, Campbell, Sheldon, Huff, Mielke, Talcott, Silver, McMahan, Stevens, Morris and Hymes).

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

Background: During the 1994 legislative session, the Legislature passed E2SHB 2510. The bill made substantial changes to the state agency rule-making process, the legislative review of rules, the regulatory fairness act, and state agency technical assistance. The Governor, who was conducting an executive branch task force on regulatory reform, vetoed numerous sections of the bill. In June, the Governor issued an executive order incorporating some of the vetoed elements into executive policy.

The Governor's task force completed its process in December and made final recommendations.

GRANTS OF RULE-MAKING AUTHORITY: The enabling statutes of many state agencies grant those agencies general authority to adopt rules. Typically, the language used will authorize rules "necessary or appropriate to carry out the provisions of this act," or "necessary or desirable to carry out the powers and duties imposed by the legislature." In some instances, agencies have used these general grants of authority, without further legislative guidance or authorization, to adopt regulatory programs.

RULE-MAKING REQUIREMENTS: The state Administrative Procedure Act (APA) details procedures that state agencies are required to follow when adopting rules.

First, an agency is required to prepare a "statement of intent" and solicit comments from the public on a subject of possible rule-making. When the agency is ready to hold a hearing on a proposed rule, it publishes a notice in the state register. A hearing is held and comments are received. An agency is required to consider, summarize, and respond to the oral and written comments it receives. The agency may then withdraw the rule, modify it, or adopt the rule as proposed.

The APA encourages agencies to use new procedures for reaching agreement among interested parties before publishing a notice of a proposed rule adoption. These new methods include negotiated rule-making and pilot rule-making.

Agencies are required to maintain a rule-making file for each rule that they propose or adopt. This file 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 written summary of those comments and a substantive response by category or subject matter; 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; documents publicly cited by the agency in connection with its decision; and citations to data and factual information relied on in rule adoption.

A court may invalidate an agency rule if it determines that the rule "could not conceivably have been the product of a rational decision maker." The state Supreme Court has interpreted this language to be the equivalent of the familiar "arbitrary and capricious" standard.

Any person may petition a state agency to adopt, amend, or repeal a rule. Within 60 days, the agency must either deny the petition and state the reasons for the denial, or initiate rule-making proceedings.

REGULATORY FAIRNESS: The Regulatory Fairness Act was adopted to minimize the proportionally higher impact of state agency rules on small businesses. When a proposed rule will impose more than minor costs 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 (SBEIS). As part of the notice of a proposed rule adoption, an agency must file notice of how a copy of the SBEIS can be obtained.

Agencies may reduce the impact of rules by exempting small businesses from some or all of the requirements of the rule, simplifying compliance or reporting requirements for small businesses, establishing different timetables for small businesses, reducing or modifying fine schedules for

noncompliance, or establishing performance rather than design standards.

LEGISLATIVE REVIEW OF RULES: The Joint Administrative Rules Review Committee (JARRC) is an eight-member bipartisan legislative committee established to selectively review proposed and existing state agency rules. JARRC 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 or was not adopted in compliance with applicable provisions of law. 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. A JARRC suspension recommendation does not establish a presumption as to the legality or constitutionality of the rule in subsequent judicial proceedings.

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 operates a similar program that provides 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.

FEES AND EXPENSES: Under federal law, the prevailing party in any civil action brought by or against the United States may be awarded costs and attorneys' fees. However, if the court finds that the position of the United States was substantially justified, or that special circumstances make an award unjust, fees and costs may not be awarded. Additionally, the court is directed to reduce the amount to be awarded to the extent that the prevailing party engaged in conduct which unduly and unreasonably protracted resolution of the case.

BUSINESS LICENSE INFORMATION: In E2SHB 2510, the Legislature directed the Department of Community, Trade, and Economic Development to develop a standardized format for reporting information commonly required from the public for permits, licenses, and services. The department conducted a study and issued recommendations. The primary recommendation involved expansion of the master license service and unified business identifier process to form the foundation for a comprehensive, one-stop business licensing and reporting system.

Summary: GRANTS OF RULE-MAKING AUTHORITY: The departments of Labor and Industries, Revenue, Ecology, Social and Health Services, Health, Licensing, Employment Security, and Agriculture, as well

as the Fish and Wildlife Commission, the Forest Practices Board, the Commissioner of Public Lands, and the Insurance Commissioner are prohibited from relying solely on the agency's enabling provisions and/or a statement of intent as statutory authority to adopt a rule. However, the Insurance Commissioner may use enabling/intent provisions to adopt procedural or interpretive rules.

All other state agencies are prohibited from adopting rules based solely on enabling provisions and/or intent language when implementing future statutes, except to interpret ambiguities in a statute's other provisions.

The Insurance Commissioner's authority to adopt rules defining unfair methods of competition or unfair or deceptive acts or practices is repealed. Other modifications are made to the Insurance Commissioner's rule-making authority.

RULE-MAKING REQUIREMENTS: When adopting significant legislative rules, the departments of Labor and Industries, Revenue, Ecology, Health, Employment Security, and Natural Resources, as well as the Forest Practices Board and the Insurance Commissioner must make specified determinations. The Department of Fish and Wildlife must also make these determinations when adopting certain hydraulics rules. Additionally, the Joint Administrative Rules Review Committee (JARRC) may require that any state agency rule be subject to these determinations.

For all of these rules, the agency must determine that: (1) the rule is needed to achieve statutory goals; (2) probable benefits are greater than probable costs; (3) the rule is the least burdensome alternative for those required to comply that will achieve the statutory objectives; (4) the rule does not conflict with federal or state law; (5) the rule does not treat public and private entities differently, unless required by law to do so; and (6) any differences from federal law are justified by explicit statutory authorization, or by substantial evidence that the difference is necessary to meet statutory objectives. The agency is required to place documentation in the rule-making file of sufficient quantity and quality so as to persuade a reasonable person that these determinations are justified.

Until July 1, 1999, when adopting Clean Air Act rules, the Department of Ecology must consider additional factors when exceeding or preceding federal standards, unless those differences are explicitly authorized by the Legislature.

For all of the rules subject to the determinations, a rule implementation plan must be developed prior to adoption, and the rule must be coordinated, to the maximum extent practicable, with other applicable federal, state and local laws. After adoption of a rule that regulates the same subject matter or activity as another provision of federal or state law, the agency is required to: (1) provide the Business Assistance Center with a listing of those other laws; and (2) make every effort to coordinate implementation and enforcement with federal and state entities by deferring, designating a lead agency, or entering into a

coordination agreement. If an agency is unable to comply with the coordination requirement, it is required to report to JARRC.

Every two years, the Office of Financial Management (OFM) is required to report on the effects of these new rule-making requirements.

OTHER ADMINISTRATIVE PROCEDURE ACT CHANGES: The "statement of intent" is renamed the "statement of inquiry." The statement must identify other federal and state agencies that have rule-making authority over the subject matter or activity of a new rule and describe the process for coordination with those agencies. Specified rules are exempt from compliance with the statement of inquiry process.

The provisions related to negotiated and pilot rule-making are clarified. Volunteers who agree to test a rule cannot be issued a penalty or any other sanction for failure to comply with the draft rule. Agencies are authorized to use the pilot rule process in lieu of preparing a small business economic impact statement. If an agency chooses to do this, requirements for small business participation in the pilot process must be met. Prior to filing notice of a proposed rule-making, agencies are required to produce a report of the pilot project.

The requirements that an agency submit a concise explanatory statement of a rule and a summary and response to public comment are combined. Processes are established for the expedited repeal of obsolete or redundant agency rules and for converting interpretive and policy statements into rules. The code reviser is required to issue a quarterly publication on state rule-making activity if money for this purpose is provided in the omnibus appropriations act.

A petitioner whose request to adopt, repeal, or amend a rule has been denied by an agency may appeal to the Governor within 30 days of the denial. The Governor is required to respond within 45 days. OFM is required to develop a standardized petition format. An agency denial of a petition must address the petitioner's concerns.

The current "conceivably the product of a rational decision maker" standard of judicial review is changed to "arbitrary and capricious."

REGULATORY FAIRNESS: The requirement that a Small Business Economic Impact Statement (SBEIS) be prepared when a rule impacts more than 20 percent of all industries or 10 percent of any one industry is repealed. Instead, an SBEIS must be prepared whenever a rule will impose more than minor costs on businesses in an industry.

The SBEIS must be filed with the code reviser along with the notice of a proposed rule. An SBEIS prepared at the request of JARRC must be filed with the code reviser before the adoption of a rule.

Based on the extent of disproportionate impact identified in the SBEIS, agencies are required to reduce the costs imposed by rules on small businesses if legal and feasible

to do so. The authorized methods for reducing the impact are repealed and new methods provided.

Unless an SBEIS is requested by JARRC, an agency is not required to prepare an SBEIS when adopting a rule solely for the purpose of complying with federal law or regulations. Instead of the SBEIS, the agency must file with the code reviser a statement specifically citing the federal law or regulation, and describing the consequences to the state if the rule is not adopted.

An agency is not required to prepare an SBEIS for rules subject to expedited repeal or rules not subject to the statement of inquiry process.

LEGISLATIVE REVIEW OF RULES: The Joint Administrative Rules Review Committee (JARRC) may not render a decision on a rule unless a quorum of five members is present. Once a quorum is established, a majority of the quorum may render any decision except a suspension recommendation. A suspension recommendation requires a majority vote of the entire JARRC membership.

Any person potentially impacted by a proposed rule or currently impacted by an existing rule may petition for JARRC review. JARRC is required to acknowledge receipt of the petition and describe the initial action taken, or the reasons for the rejection of the petition, within 30 days. JARRC is required to make a final decision on the rule within 90 days of the receipt of the petition.

A JARRC recommendation to suspend a rule because it does not conform with the intent of the Legislature establishes a rebuttable presumption that the rule is invalid. If this occurs, the burden of demonstrating the rule's validity is on the adopting agency.

JARRC is required to keep complete minutes of its meetings. It is authorized to establish ad hoc advisory boards and to hire staff as needed. JARRC is granted the authority to issue subpoenas and compel the attendance of witnesses and the production of documents. In the case of a refusal to comply with a JARRC subpoena or request to testify, the superior court is directed to compel obedience by proceedings for contempt.

Any individual employed or holding office in any state agency may submit rules warranting review to JARRC. State employees who identify rules warranting review or provide information to JARRC are protected from retaliation under state employee whistleblower provisions.

Before the 1996 legislative session, the appropriate standing committees of the Legislature are directed to study alternative means to providing rule-making oversight, and to recommend whether JARRC should be continued or replaced.

TECHNICAL ASSISTANCE: All regulatory agencies are required to develop technical assistance programs that include technical assistance visits. A technical assistance visit is defined and the terms of such a visit are established. Except for specified violations, agencies are required to provide those being visited a reasonable period of time to correct violations identified during the visit. If identified

violations are not corrected within the specified time, the civil penalty may be imposed. Agencies are not obligated to conduct a technical assistance visit.

Except in the case of specified violations, the Department of Ecology, in the course of a site inspection that is not a technical assistance visit, is authorized to issue a "notice of correction" instead of immediately imposing a civil penalty. The civil penalty may be imposed if compliance with the notice of correction is not achieved by the date specified.

The "notice of correction" process may also be utilized by the departments of Agriculture, Fish and Wildlife, Health, Licensing, and Natural Resources. However, for these agencies, the violations excluded from the notice of correction process include those committed by a business employing 50 or more employees, and those related to fish and wildlife rules dealing with seasons, catch limits, gear types, and geographical areas.

Following a compliance inspection, the Department of Labor and Industries is required to issue citations for violations of industrial safety and health standards, but the citation cannot assess a penalty if the violations are determined not to be of a serious nature, have not been previously cited, are not willful, and do not have a mandatory penalty under the Washington Industrial Safety and Health Act.

The departments of Revenue, Labor and Industries, and Employment Security are required to undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. These agencies must also develop and administer a pilot voluntary audit program, and review the penalties they issue related to taxes or premiums to determine if the penalties are consistent and provide for waivers in appropriate circumstances.

Any of the technical assistance provisions that conflict with federal requirements are inoperative. The Governor and the Legislature are to be notified regarding any such conflict.

Every two years until the year 2000, OFM is required to study the effects of the technical assistance provisions on the regulatory system of the state.

FEES AND EXPENSES: Qualified parties who successfully challenge an agency action will be awarded fees and expenses not exceeding \$25,000 unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. Qualified parties include an individual whose net worth does not exceed \$1 million, and a sole owner of an unincorporated business or organization whose net worth does not exceed \$5 million. Certain nonprofit organizations and agricultural cooperatives are eligible regardless of net worth. Fees and expenses to be awarded include reasonable attorneys' fees (generally limited to \$150 per hour), expert witness expenses, and costs of studies or other projects or tests found by the court to be necessary for preparation of the party's

case. A court may reduce or deny an award if it finds that the qualified party unduly protracted final resolution of the dispute.

Awarded fees and expenses will be paid by the agency over which the qualified party prevailed. Payments will be reported to OFM. OFM is required to report annually to the Legislature on the amount of fees and expenses awarded.

BUSINESS LICENSE INFORMATION: By December 31, 1995, the Department of Licensing is required to develop a plan for a statewide license information management system and for a combined licensing program.

By December 31, 1996, the Department of Licensing is required to expand the license information management system in order to provide on-line local, state, and federal business registration and licensing requirements.

By June 30, 1997, the Department of Licensing must have a combined licensing project fully operational in at least two cities within the state.

The \$5 fee currently charged to receive a license information packet from the Department of Licensing is repealed.

Votes on Final Passage:

House	64	32	
Senate	38	10	(Senate amended)
House	89	8	(House concurred)

Effective: July 23, 1995

Partial Veto Summary: Sections that limited the rule-making authority of the Department of Labor and Industries, the Forest Practices Board, and the Insurance Commissioner are deleted. A section that repealed the Insurance Commissioner's ability to adopt unfair practice rules is deleted. A section that granted to JARRC the power to establish a rebuttable presumption of rule invalidity is deleted.

VETO MESSAGE ON HB 1010-S

May 16, 1995

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 110, 112, 113, 114, 115, 116, 119, and 504, Engrossed Substitute House Bill No. 1010 entitled:

"AN ACT Relating to regulatory reform;"

Over the last few years, the issue of regulatory reform has generated spirited discussion and debate. I have come to the conclusion that, like beauty, regulatory reform is really in the eye of the beholder. While there is widespread agreement about the problems, there is less clarity regarding solutions. This bill represents a path to regulatory reform that I believe will make significant changes in the regulatory climate. We all must embark upon this path in a spirit of cooperation and with the firm resolve to work together to successfully implement this legislation. Everyone who is concerned with these issues must have a place at the table: the regulated community, state agencies, local governments, the environmental community, labor, and interested citizens groups. Without this cooperative spirit, it will be impossible to implement significant, long-term change.

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, 1993 report. The task force made its final recommendations in December, 1994.

Although this bill was not originally based on the task force recommendations, in its final form it has adopted many elements consistent with those recommendations, and I would like to applaud the legislature for incorporating those recommendations.

I want to focus first on the very significant positive steps in regulatory reform that are included in this bill. This bill represents what I hope will be meaningful change in the regulatory environment. At the same time, I believe that it meets the goals I set out when I established the task force: to establish long-term solutions to complex regulatory issues and to ensure that regulatory reform solutions ensure continued protection of the environment, the health, and the safety of our citizens.

I am signing the provisions of section 201 establishing new rule adoption criteria. These criteria were developed by the task force. The application of these criteria to the significant legislative rules of nine major agencies will result in detailed analyses of important factors in agency rulemaking. There are several changes made from the task force recommendations. The task force would have applied these criteria to a limited set of rules for a small number of agencies. It also established a sunset date to assure that the legislature would review these criteria and would determine their effectiveness. This bill expands both the rules and the agencies which must comply with these procedures. There is no sunset on these criteria, but I am hopeful that the legislature will evaluate the impact of these criteria over time. The Office of Financial Management will be reviewing and reporting to the governor and to the legislature on the impact of this section which will allow us to monitor its effects. I also have some reservations regarding the impact of this section in that these procedures may not result in better rules, but only in more litigation. However, I think we must go ahead and implement this section and all work together to make sure that this process does result in better rule-making—not more delay and confusion.

I am also signing Part VI dealing with technical assistance in its entirety. These provisions will encourage cooperative relationships between agencies and the regulated community. It has always been my firm belief that people will comply with the rules as long as they understand them, and these provisions will make it easier to know how to comply.

I am also signing sections 901 through 905 which allow the recovery of reasonable attorney's fees from the state. The purpose of these sections is to allow individuals and small businesses access to the courts to challenge agency actions by authorizing courts to award attorney's fees when agency actions are successfully challenged. I believe it is important to allow access to our judicial system for those who may not have the necessary financial resources. I am concerned, however, that these provisions, in combination with the rule adoption criteria process in section 201, may create a significant incentive to challenge agency rules and other agency actions in the hope of recovering attorney's

fees. These challenges are likely to be fought out over procedural issues rather than policy issues, and the potential fiscal impact of these provisions are significant. This will have to be monitored over time to determine the effects of these sections.

I am signing provisions establishing a process for an appeal to the governor if an agency refuses to begin rule making proceedings, for a streamlined rule repeal process, and for simplification of rule making for less significant rules.

I am also signing provisions directing the Department of Licensing to establish pilot programs on combined state and local business licensing. This provision is real regulatory reform. These pilot programs will assist businesses in obtaining permits and licenses from multiple jurisdictions, thus addressing one of the major complaints of both small and large businesses.

I am signing section 802 which changes the standard of judicial review of agency rules from the current standard that the rule "could not conceivably have been the product of a rational decision maker" to "arbitrary and capricious." This appears to be consistent with the Washington Supreme Court decision in Neah Bay Chamber of commerce v. Department of Fisheries, 179 W.2d 464 (1992). There is some language in the intent section that indicates that a different standard of review was intended. Consistent with the rationale of the Part I grants of authority sections, in which agencies are prohibited from relying on intent statements to develop substantive regulatory programs, the legislature cannot create a different standard of judicial review in an intent section than the standard created in the substantive section 802. Any other reading would suggest an amendment by reference of RCW 34.05.570. I am, therefore, approving section 802 with the understanding that the standard for review will be arbitrary and capricious as articulated by the Washington State Supreme Court.

Turning now to other provisions of the bill, Part I concerns the authority of some agencies to adopt rules. Many in the business community and in the legislature complain about the liberty they believe agencies take with their authority to implement legislation. This has led to an effort to modify what are referred to as "broad grants of rule making authority." The task force struggled with this issue and recommended a solution for future legislation. However, it was unable to find a solution for existing statutes that would not lead to unanticipated consequences. This legislation does not avoid those problems.

Upon careful consideration and after consulting with members of the legislature and with others, I have concluded that sections 101-109 and section 111 only limit the authority of an agency to adopt rules when there is no statutory authority, other than an intent section, for an agency to act. If an agency has been given authority to carry out specific statutory directives in a particular area, even though the statute does not provide explicit authority to adopt rules as part of its regulatory scheme, these provisions do not prohibit an agency from adopting rules to implement the legislature's expressed intent that the agency carry out its statutory responsibilities. The language of these sections prohibits agencies from adopting rules solely in reliance on an intent section in combination with the statute establishing the agency. Intent sections should not be used by the agencies or by the legislature as the sole authority to create substantive rules or law.

Section 112 is similar to sections 101-111 except that it contains additional provisions intended to address the issue of prevailing wage. The Department of Labor and Industries' authority to adopt rules governing prevailing wage issues is under attack in the courts. The department is currently in litigation over its authority to adopt rules under the prevailing wage statute. This section includes language indicating it is the intent of the legislature to retain the status quo. This very statement recognizes the possibility that the department's authority is in doubt. This stands to undermine the department's position in ongoing litigation.

Sections 113-116 relate to the authority of the Insurance Commissioner. Unlike the language in sections 101-109 and section 111, these sections directly restrict the commissioner's use of specific rulemaking authority to develop rules. For example, section 115 allows the commissioner to make rules regarding aspects

of health care service contractor practices, including the maintenance of adequate insurance and cash deposits. It is the heart of the authority to regulate health care service contractors. The amendment would not allow the commissioner to rely on that section for rulemaking authority. Section 116 is the authority to regulate health maintenance organizations. This language provides that the commissioner may not rely on this specific authority. As I read this, it would leave the commissioner in the position where the commissioner's ability to regulate important aspects of the health insurance industry would be severely compromised. Removing this authority could create significant risk to consumers. Similarly, section 114 provides authority to regulate against unfair and deceptive practices. This is the heart of the commissioner's consumer protection authority. The commissioner must be able to act quickly as new circumstances arise to protect the public. I cannot sign sections that would significantly reduce the ability of the Insurance Commissioner to act for the public good.

It is important to note the difference in the language used in sections 101-111 and in sections 113-116 dealing with the Insurance Commissioner. In the commissioner's sections, the legislature clearly intended to limit the use of the grant of rule making authority. In sections 101-109 and section 111, however, there is no restriction on the use of the general grant of rule making authority in combination with other substantive provisions of law. It is because of this distinction that I am signing sections 101-109 and section 111.

Section 110 dealing with the Forest Practices Board creates problems due to the placement of the proviso language. This section is a specific grant of rule making authority (in the same manner as section 115 related to the Insurance Commissioner). It also contemplates that the board may specifically rely on RCW 76.09.010 which contains specific directives to the board regarding the development of comprehensive forest practices regulations as the basis for rules. This proviso, as placed, appears to give authority for rule making, then to take it away, then to give it back. It is so ambiguous as to create complete uncertainty for most of the board's regulations.

Section 119 exempts the agencies covered by sections 101 through 116 from the prospective grants of authority requirements of section 118 which apply to all agencies. We must ensure all agencies, including the Department of Labor and Industries, the Insurance Commissioner, and the Forest Practices Board, will be subject to the prospective restrictions on grants of authority in section 118.

It is important to note that the very significant provisions of this bill related to technical assistance, rule adoptions criteria, and judicial review all apply to the Department of Labor and Industries, the Insurance Commissioner and the Forest Practices.

Section 504 gives the Joint Administrative Rules Review Committee (JARRC) the ability, by a majority vote, to establish a rebuttable presumption in judicial proceedings that a rule does not comply with the legislature's intent. The burden of proof to establish that a rule was within legislative intent would be shifted to the agency from the individual challenging the rule. This would mean that 5 legislators out of a total of 147 members could determine legislative intent, regardless of their participation in the policy committees that developed the underlying legislation upon which the rule is based.

I have serious concerns about the constitutionality of section 504. This section violates the provisions of the state constitution which require legislative acts be done by the entire legislature with presentment to the governor for approval. Moreover, this violates the separation of powers doctrine, in that it intrudes unduly into those constitutional powers reserved for the executive and judicial branches of government. This is based primarily on the decision of the United States Supreme Court in Immigration & Naturalization Service v. Chadha, 462 U.S. 919 (1983), and the analysis of the overwhelming majority of state and federal court opinions on the subject.

It is my hope that the legislature will work with all interested parties to develop an alternative model to assure the appropriate

legislative, executive, and judicial branch roles in reviewing agency rules. I have signed Engrossed Substitute Senate Bill No. 6037 today which commits to study an independent rules review commission as a possible alternative to JARRC. I intend to work with the legislature in exploring this option. In addition, the legislature retains the right to reject an agency rule through a bill adopted by both the House of Representatives and the Senate which goes to the governor for approval. This is consistent with the inherent constitutional principles concerning the appropriate role of the three branches of government.

There are other provisions relating to JARRC which give me great concern for similar reasons. One is in section 201(5)(a)(ii) which purports to allow JARRC to require any agency rule to be bound by the elaborate rule making criteria in section 201. This is not just for "significant legislative rules," as recommended by the task force, but for any rule. This includes interpretive and procedural rules which are within the unique province of agencies to adopt. However, because this provision is in section 201, I must either veto that entire section or allow this JARRC intrusion into executive branch affairs. I have reluctantly opted for the latter approach, in spite of the unconstitutional nature of this provision.

Section 404 allows JARRC to require agencies to prepare a small business economic impact statement when adopting rules to conform to federal law or regulation. This provision also raises constitutional questions; however, a veto of this section would result in the elimination of the underlying exemption from the automatic requirement for agencies to develop these statements. This would impose an unreasonable burden on state agencies. If JARRC seeks to implement this provision, I trust it will do so with appropriate restraint and with a view toward cooperation with the executive agencies. It is with that understanding, that I am approving this provision.

For these reasons, I have vetoed sections 110, 112, 113, 114, 115, 116, 119, and 504 of Engrossed Substitute House Bill No. 1010.

With the exception of sections 110, 112, 113, 114, 115, 116, 119, and 504, Engrossed Substitute House Bill No. 1010 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 1012

C 133 L 95

Regulating loans made by pawnbrokers.

By Representative L. Thomas.

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

Background: Pawnbrokers are regulated by state law, although local governments may enact more restrictive provisions. In addition to regulating business practices such as recording business information and reporting to law enforcement officials, state law regulates the lending of money by pawnbrokers.

Pawnbrokers are authorized to receive interest and loan preparation fees up to statutory limits. For instance, for a loan of \$100, the maximum interest charge is \$3 per 30-

day period; for a loan of \$100, the maximum loan fee is \$12. While statutory provisions likely intend that the loan fee be a one-time charge, that the loan be for one 30-day period plus a minimum 60-day grace period, and that interest be collected during the entire loan period, the ambiguous use of "term of the loan" in statutory changes made in 1991 could result in some confusion.

Summary: State law regulating loans by pawnbrokers is modified. The existing law is changed to clarify that the loan period, for which a loan fee can be charged only once and during which interest can be collected, includes the term of the loan (30 days) plus a minimum 60-day grace period. Additional disclosures must be made to the customer, and pawnbrokers can refinance an existing loan by mail.

Votes on Final Passage:

House	94	0
Senate	39	0

Effective: July 23, 1995

EHB 1014

PARTIAL VETO

C 399 L 95

Correcting obsolete references to the department of community development and the department of trade and economic development.

By Representatives Padden, Dellwo, Costa, Appelwick and Silver; by request of Statute Law Committee.

House Committee on Law & Justice
Senate Committee on Labor, Commerce & Trade

Background: Sometimes legislation is enacted that changes the name of an agency or makes other similar changes. Often the bill that makes such changes does not include every one of the Revised Code of Washington (RCW) sections that refers to the agency or subject being affected.

For instance, the Legislature recently merged two departments of state government. What were previously the departments of "Community Development" and "Trade and Economic Development" are now a single "Department of Community, Trade, and Economic Development." The bill that made this change contained many sections that deal with the direct makeup, authority, and responsibilities of the agencies. However, there are dozens of other RCW sections scattered throughout the code that contain references to the prior departments. As a result, there are currently many statutes that incorrectly still refer to the "Department of Trade and Economic Development" or the "Department of Community Development."

Other obsolete references also remain in the code.

HB 1015

One of the duties of the Code Reviser's Office is to recommend to the Legislature bills to clean up the RCW by removing or changing obsolete references.

Summary: Various obsolete references in the Revised Code of Washington are removed or corrected.

Votes on Final Passage:

House	93	0
Senate	40	0

Effective: July 23, 1995

Partial Veto Summary: The veto removes sections of the bill that were amended by other bills also passed in the 1995 session.

VETO MESSAGE ON HB 1014

May 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1-6, 11, 19, 22-24, 42, 46-53, 73, 118, 119, 125-141, 143, 152, 153, 164, 165, 169-187, 195, 198, 201, 205, 206, and 217, Engrossed House Bill No. 1014 entitled:

"AN ACT Relating to obsolete references;"

Engrossed House Bill No. 1014 is an important effort to clarify the Revised Code of Washington (RCW) following the merger of the authorities of the former departments of Community Development and Trade and Economic Development into the new Department of Community, Trade, and Economic Development. It is necessary to update the RCW to reflect this change.

However, a number of sections in the bill conflict with changes in numerous other bills already enacted by the 1995 Legislature and signed into law. I am, therefore, vetoing these sections to provide technical clarification and to ensure that the intent of the most recent legislation is reflected in law.

For these reasons, I have vetoed sections 1-6, 11, 19, 22-24, 42, 46-53, 73, 118, 119, 125-141, 143, 152, 153, 164, 165, 169-187, 195, 198, 201, 205, 206, and 217 of Engrossed House Bill No. 1014.

With the exception of sections 1-6, 11, 19, 22-24, 42, 46-53, 73, 118, 119, 125-141, 143, 152, 153, 164, 165, 169-187, 195, 198, 201, 205, 206, and 217, Engrossed House Bill No. 1014 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 1015

C 134 L 95

Correcting double amendments from the 1994 legislative sessions.

By Representatives Padden, Dellwo, Costa, Appelwick and Silver; by request of Statute Law Committee.

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

Background: In a given legislative session, two or more bills may amend the same section of the Revised Code of Washington. When this happens, and neither bill refers to or incorporates the changes from the other, a so-called "double" or "multiple" amendment occurs.

Most often, there is no substantive conflict between the multiple amendments to a section of the code. In such instances the Code Reviser's Office may suggest corrective legislation in the next session of the Legislature.

Summary: Various sections of the Revised Code of Washington are reenacted to merge multiple amendments made in the 1994 legislative session.

Votes on Final Passage:

House	93	0
Senate	41	0

Effective: July 23, 1995

SHB 1017

C 391 L 95

Transferring emergency management functions from the department of community development to the military department.

By House Committee on Government Operations (originally sponsored by Representatives D. Schmidt, Horn, Robertson, Padden, Lisk, Scott, Dyer, Thompson, Goldsmith, K. Schmidt, Sehlin, Campbell, Sheldon and Talcott).

House Committee on Government Operations
Senate Committee on Government Operations

Background: Since World War II, the state's functions relating to emergency management have been organizationally separate from the Military Department. The original structure was the Civil Defense Department. In 1972, the Civil Defense Department was renamed the Department of Emergency Services, and in 1984, it was renamed the Department of Emergency Management. In 1986, the Department of Emergency Management was merged into the Department of Community Development as the Division of Emergency Management. In 1993, the Legislature merged the Department of Community

Development with the Department of Trade and Economic Development.

The new Department of Community, Trade, and Economic Development is organized into six core service areas, including: community-based family services; trade and economic sectors; local development assistance; growth management; housing; and public safety. The public safety core service area includes both fire protection and emergency management services.

In most instances, emergency management personnel are civilians. However, during major disasters, such as the eruption of Mount St. Helens in 1980, the Governor mobilizes the National Guard and assigns it the command responsibility.

In approximately half of the states, emergency management functions are administered by the Military Department. In 1994, the Legislature passed SB 6023, which transferred administration of the state's comprehensive emergency management program to the Military Department. However, this legislation was vetoed by the Governor.

Summary: Administration of the state's comprehensive emergency management program is transferred from the Department of Community, Trade, and Economic Development (CTED) to the Military Department. All powers and duties, personnel and equipment, rules and pending business are transferred from CTED to the Military Department.

CTED's fire mobilization policy for reimbursing non-host fire protection authorities is codified. All nonhost fire protection authorities are eligible for state reimbursement, even if they responded prior to state mobilization under a mutual aid or other interlocal agreement.

Reimbursement of host fire districts is authorized under the state mobilization plan when the host district has exhausted all of its resources and the resources of its local mutual aid network. Reimbursement to the host district must be done in as timely a manner as possible.

The Military Department must develop a strategic plan to enhance coordination and efficiency and decrease costs. Plan elements are specified. A summary of the plan must be submitted to the Legislature by July 10, 1996.

Votes on Final Passage:

House	70	24	
Senate	35	7	(Senate amended)
House	74	23	(House concurred)

Effective: July 1, 1995

EHB 1022

FULL VETO

Reducing property taxes.

By Representatives B. Thomas, Dyer, Cooke, Carlson, Casada, Chandler, Brumsickle, Foreman, Silver, Sherstad, Dellwo, Benton, Skinner, Kremen, Hargrove, Horn, Schoesler, Buck, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Hickel, Backlund, Crouse, Cairnes, Elliot, Reams, Pennington, Mastin, Carrell, Mitchell, K. Schmidt, Quall, Chappell, G. Fisher, Basich, Grant, Smith, Robertson, Sehlin, Honeyford, Van Luven, Pelesky, Koster, Lambert, D. Schmidt, Mulliken, Boldt, McMorris, Clements, Campbell, L. Thomas, Huff, Mielke, Talcott, McMahan, Stevens and Hymes.

House Committee on Finance

Background: The state annually levies a statewide property tax. The state property tax is limited to a rate no greater than \$3.60 per \$1,000 of market value. The state property tax is also limited by the 106 percent levy limit. The 106 percent levy limit requires reduction of property tax rates as necessary to limit the total amount of property taxes received by a taxing district. The limit for each year is the sum of (a) 106 percent of the highest amount of property taxes levied in the 3 most recent years, plus (b) an amount equal to last year's levy rate multiplied by the value of new construction.

Summary: The state property tax for collection in 1996 is reduced by 4.7187 percent. The reduced 1996 levy will not be used for future state levy calculations under the 106 percent levy limit. This change reduces the state property tax by \$54 million in 1996.

Votes on Final Passage:

First Special Session

House	93	4	
House	93	4	(House reconsidered)

Second Special Session

House	88	3
Senate	45	2

VETO MESSAGE ON HB 1022

June 16, 1995

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

Ladies and Gentlemen:

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

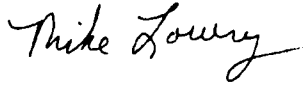
"AN ACT Relating to reducing property taxes;"

Engrossed House Bill No. 1022 would reduce the state school levy by 4.718% in calendar year 1996. Today, I signed Second Engrossed Substitute Senate Bill No. 5000, which is identical to Engrossed House Bill No. 1022.

EHB 1023

For this reason, I have vetoed Engrossed House Bill No. 1022 in its entirety.

Respectfully submitted,



*Mike Lowry
Governor*

EHB 1023 **FULL VETO**

Reducing business and occupation tax rates.

By Representatives B. Thomas, Foreman, Chandler, Lisk, Cooke, Carlson, Brumsickle, Silver, Ballasiotes, Dyer, Sherstad, Dellwo, Benton, Skinner, Kremen, Hargrove, Tokuda, Costa, Horn, Delvin, Schoesler, Buck, Johnson, Thompson, Beeksma, Goldsmith, Radcliff, Hickel, Backlund, Crouse, Cairnes, Elliot, Reams, Pennington, Mastin, Carrell, Mitchell, K. Schmidt, Quall, Chappell, G. Fisher, Grant, Smith, Robertson, Sehlin, Honeyford, Van Luven, Pelesky, Blanton, Koster, Lambert, D. Schmidt, Mulliken, Boldt, McMorris, Clements, Fuhrman, Campbell, L. Thomas, Huff, Mielke, Talcott, McMahan, Stevens, Morris, Hymes and Casada.

House Committee on Finance

Background: B&O Taxes. 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:

Manufacturing, wholesaling, & extracting	0.506%
Retailing	0.471%
Services:	
- Business Services	.5%
- Financial Services	1.7%
- Other activities	2.09%

Selected services subject to the 2.5 percent rate include the following:

- Stenographic, secretarial, and clerical services;
- Computer services, including computer programming, custom software modification, custom software installation, custom software maintenance, custom software repair, training in the use of custom software, computer systems design, and custom software update services;
- Data processing and information services, but excluding information services to the media through an information network;
- Legal, arbitration, and mediation services, including paralegal services, legal research services, and court reporting services;
- Accounting, auditing, actuarial, bookkeeping, tax preparation, and similar services;

- Design services whether or not performed by persons licensed or certified, including engineering services and architectural services;
- Business consulting services, including administrative management consulting, general management consulting, human resource consulting or training, management engineering consulting, management information systems consulting, manufacturing management consulting, marketing consulting, operations research consulting, personnel management consulting, physical distribution consulting, site location consulting, economic consulting, motel, hotel, and resort consulting, restaurant consulting, government affairs consulting, and lobbying;
- Business management services, including administrative management, business management, and office management, but excluding property management or property leasing, motel, hotel, and resort management, or automobile parking management;
- Protective services, including detective agency services and private investigating services, armored car services, guard or protective services, lie detection or polygraph services, and security system, burglar, or fire alarm monitoring and maintenance services;
- Public relations or advertising services, including layout, art direction, graphic design, copy writing, mechanical preparation, opinion research, marketing research, marketing, or production supervision, but excluding services provided as part of broadcast or print advertising; and
- Aerial and land surveying, geological consulting, and real estate appraising.

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, in 1993 a surtax of 6.5 percent was imposed on all B&O tax classifications except selected business services, financial services, retailing, and public and nonprofit hospitals. The surtax was lowered to 4.5 on January 1, 1995. The surtax expires July 1, 1997. The surtax is calculated by multiplying each permanent rate to which it applies by 1.045. For example, the 2 percent service rate becomes 2.09 percent during the time the 4.5 percent surtax is in effect.

Tax Programs in Economically Distressed Areas. The state of Washington has created various tax incentives to encourage the development or retention of businesses in economically distressed areas. Economically distressed areas are those counties having an unemployment rate that is 20 percent higher than the state average, designated community empowerment zones within cities, or sub-county

areas in non-distressed counties that are in timber impact areas.

The Distressed Area Tax Deferral program was created in 1985 to encourage economic development in eligible areas. Manufacturing, research and development, and computer-related service businesses are given a deferral on their sales and use taxes on buildings, machinery and equipment, and construction or installation labor. The business must create one job per \$750,000 of investment. The sales and use tax is forgiven on new buildings, new equipment, and modernization of existing buildings.

The Distressed Area Business and Occupation Tax Credit program was created in 1986 as an incentive for manufacturing, research and development, and computer-related service businesses to create employment opportunities in eligible areas. Businesses in eligible areas that create a new work force or increase an existing work force by 15 percent are allowed a business and occupation (B&O) tax credit equal to \$1,000 for each new full time employment position. No more than \$15 million in total tax credits are allowed per biennium. No single business may receive more than \$300,000 in tax credits.

Summary: B&O Taxes. Business and Occupation Tax rates are reduced as follows, effective July 1, 1995:

The permanent rate for selected business services is reduced from 2.5 percent to 2.0 percent. This rate continues to be exempt from the surtax.

The permanent rate for financial businesses is reduced from 1.7 to 1.6 percent. This rate continues to be exempt from the surtax.

The permanent rate for other services is reduced from 2.0 percent to 1.75 percent. This rate is subject to the 4.5 percent surtax, so the rate in effect until July 1, 1997, will be 1.83 percent.

Tax Programs in Economically Distressed Areas. The amount of tax credit available to manufacturing, research and development, and computer-related service businesses in distressed areas is increased from \$1,000 to \$2,000 for each new full time employment position. The business must either create a new work force or increase an existing work force by 15 percent to be eligible for the tax credit. The increased credit is available for projects approved after January 1, 1996.

A business and occupation tax credit program is created for state-approved, employer provided or sponsored job training services for employees. The state-approved job training services must be provided free to the employee and be designed to enhance his or her job-related performance. The tax credit is available to manufacturing, research and development, and computer-related service businesses in distressed areas. The tax credit is equal to 10 percent of the value of the state-approved job training services. The business must request approval from the Department of Employment Security prior to claiming the credit.

Votes on Final Passage:

House 97 1

First Special Session

House 95 2

Second Special Session

House 91 2

Senate 41 6

VETO MESSAGE ON HB 1023

June 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed House Bill No. 1023 entitled:

"AN ACT Relating to reducing business and occupation tax rates;"

Sections 1 and 2 of Engrossed House Bill No. 1023 reduce the Business & Occupation (B&O) tax rate for the three categories of service firms in the state. The B&O rate for "selected business services" is reduced from 2.5% to 2.0%; for "financial services" it is reduced from 1.7% to 1.6%; and for real estate brokers and the "other service" category it is reduced from 2.0% to 1.75%. The total revenue reduction from the decreases in the rates is \$173 million in the 1995-97 biennium, and \$211 million in the 1997-99 biennium.

The June 15 announcement of a \$181 million reduction in the revenue forecast, due in part to announcements of further Boeing and Hanford layoffs and the slowing of the national economy, means the revenue assumptions made by the Legislature in its budget are no longer valid, and the level of budget reserves proposed is no longer available.

It is vitally important for Washington to maintain a prudent reserve capable of allowing the state to operate through both good and bad economic times without resorting to tax increases or drastic program cuts. One of the primary features of Initiative 601 is the requirement to build reserves when the economy is strong, so they are available when the economy slows.

With the very real likelihood of significant federal costs being shifted to the states in an effort to balance the federal budget, the basic uncertainty over the future of the economy as expressed by the Governors Council of Economic Advisors, and the ever-present possibility of unexpected costs, it is especially important today that Washington has a strong budget reserve.

It is in order to maintain a prudent and responsible level of reserves that I am vetoing the B&O rate reductions in sections 1 and 2 of this bill.

Section 3 increases the distressed area business and occupation tax credit program in chapter 82.62 RCW from \$1,000 to \$2,000 for each qualified employment position created in an eligible business project approved after January 1, 1996.

Current law caps the program for all participants at \$15 million in credits per year. However, only \$300,000 - \$800,000 of credits are being claimed annually. Many distressed area employers hire employees without claiming the tax credit. This may be because an employer must increase the work force by 15% in order to qualify for the credit. Thus the program provides an incentive for hiring a batch of new employees all at once, but provides no incentive for employers who replace employees or add a few new employees here and there as needed.

Increasing the size of the credit may provide a slight incentive for employers to alter hiring practices by delaying new hires until such a time as sufficient employees can be hired at one time to meet the 15% requirement. The impact is not likely to be significant, since other considerations are likely to have a stronger influence on hiring decisions.

Furthermore, current law caps the credit to a single employer at \$300,000 dollars for the life of the program. Increasing the credit would reduce the number of employees that could be hired before the cap is reached. Once the cap is reached, there would be no further incentive to hire.

Consequently, I am not convinced that section 3 will have the desired effect of increasing employment in distressed areas.

Section 4 creates a new business and occupation tax credit equal to 20 percent of the cost of job training services provided to an employee without charge. It would be available to businesses eligible for the distressed area tax deferral under chapter 82.60 RCW. The bill does not provide any means to assure that the training will be of any value to the employee in the long term.

The proposed job training service must be approved by the Employment Security Department before the credit can be allowed. However, the bill sets forth no standards or guidelines for approving the training, except that the job training services must "be designed to enhance the job-related performance of employees." This language is so broad that it could include simple on-the-job training to accomplish the specific task for which the employee was hired.

Section 4 does not provide any means to identify employees who might benefit from training, nor does it assess their training needs, or evaluate the success of the training program. There are no assurances whatsoever that participating employees will achieve a verifiable and measurable increase in their knowledge, skills, or abilities.

Overall, the veto of the sections reducing the B&O tax rates, and the sections expanding the distressed area programs reduces the 1995-97 tax cuts \$176 million.

For these reasons, I am vetoing Engrossed House Bill No. 1023 in its entirety.

Respectfully submitted,

Mike Lowry
Governor

2SHB 1027

C 230 L 95

Redirecting school administrative resources to the classroom.

By House Committee on Appropriations (originally sponsored by Representatives Brumsickle, Carlson, Cooke, Ballasiotes, B. Thomas, Chandler, Lisk, Horn, Foreman, Dyer, Sehlin, Silver, Sherstad, Benton, Schoesler, Buck, Johnson, Thompson, Radcliff, Hickel, Backlund, Cairnes, Elliot, Pennington, Mastin, Carrell, Mitchell, K. Schmidt, Chappell, Smith, Honeyford, Blanton, D. Schmidt, Mulliken, McMorris, Clements, Fuhrman, Sheldon, Huff, Mielke, Talcott and McMahan).

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

Background: The state's public education system includes multiple levels of governance and administration. There are three permanent state-level administrative agencies, a temporary commission, Educational Service Districts, school district central offices, and building

administrators. Concerns have been expressed that these multiple layers of administration need to be reduced in size, and that the roles and responsibilities of these entities need to be prioritized and clarified. By doing so, additional funds will be available for expenditures that more directly support classroom activities.

School districts expend funds for the costs associated with teaching, teaching support, administration, food services, grounds care, utilities, transportation, data processing, and insurance. In the 1992-93 fiscal year, 68 percent of all district general funds was spent on teaching and teaching support, 7 percent was spent on central administration, and 6 percent was spent on building administration (principals, assistant principals, and support staff).

The Joint Select Committee on Education Restructuring was created in 1993 to oversee education reform activities and to make recommendations regarding state education laws. It consists of six state senators and six state representatives.

Summary: State-level Education Governance. The Joint Select Committee on Education Restructuring is directed to review the roles and responsibilities of:

- the Office of the Superintendent of Public Instruction;
- the State Board of Education;
- the Commission on Student Learning;
- the Workforce Training and Education Coordinating Board; and
- Educational Service Districts.

Prior to December 15, 1996, the select committee is to develop a recommendation to the Legislature for creating a revised state-level education governance system.

The new governance system is to:

- focus on the improvement of student learning;
- reduce state-level administrative expenditures;
- provide technical assistance and leadership to school district staff and parents;
- result in minimal regulatory oversight; and
- have clear lines of authority and accountability.

The select committee may also continue its review of laws that inhibit, or do not enhance, student learning.

School District Financial Review Program. School districts are strongly encouraged to review school district expenditures, and to take actions that will increase the percentage of district funds that are used to support the classroom.

In order to assist school districts in this effort, the School District Financial Review Program is created. The purpose of the program is to provide funding to school districts to conduct financial reviews and to develop strategies that will increase the amount of resources that are used in the classroom.

The program is to be administered by the Superintendent of Public Instruction, or a contractor as designated by the superintendent. The superintendent, or contractor, shall establish application and approval requirements. A minimum 50 percent match is required. Districts with

enrollments greater than 500 students that spent less than two-thirds of their total general fund expenditures on teaching and teaching support shall receive priority in the allocation of funds.

School districts that receive grants are to identify what actions the district has taken, or plans to take, to increase classroom expenditures. A summary report is to be submitted to the Legislature by January 15, 1996.

The review process and grant program are to be repeated in 1997.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: May 1, 1995

SHB 1035

C 204 L 95

Requiring the attorney general to convene a death investigation if a death occurs in a residential facility operated or under the control of the department of social and health services.

By House Committee on Children & Family Services (originally sponsored by Representatives Thibaudeau, Morris, Scott, Tokuda, Costa, Mason, Brown, Ogden, Basich, Wolfe, Patterson and Chopp).

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

Background: The Department of Social and Health Services provides residential care directly to clients in institutions that serve people with developmental disabilities, the mentally ill, juvenile offenders, and other populations. The department also pays for the residential care of individuals in a wide variety of licensed and contracted facilities. When a death occurs in one of these residential settings, an investigation may be conducted by the department, the county coroner or medical examiner, the local health department in the case of child mortality reviews, or all three.

Summary: The Department of Health, in conjunction with the Department of Social and Health Services, local health departments, coroners, medical examiners and others will develop a consistent process for reviewing unexpected deaths of children receiving services through the Department of Social and Health Services. The Department of Health is directed to report its recommendations to the Legislature by November 1, 1995.

Votes on Final Passage:

House	96	0	
Senate	46	0	(Senate amended)
House	89	0	(House concurred)

Effective: July 23, 1995

HB 1039

C 3 L 95

Increasing the number of citizen members of the Washington citizens' commission on salaries for elected officials.

By Representatives B. Thomas, Reams, Dyer, R. Fisher, Sommers, Costa, Mitchell, Basich and Wolfe.

House Committee on Government Operations
Senate Committee on Government Operations

Background: The Washington Citizens' Commission on Salaries for Elected Officials is charged with the responsibility of fixing the salaries of members of the Legislature, all elected officials of the executive branch of state government, and all judges of the Supreme Court, courts of appeals, superior courts, and district courts after studying the relationship of the officials' salaries to their duties.

The commission currently consists of 15 members. Eight of these members are selected by lot by the Secretary of State from lists of eligible registered voters. The seven remaining members of the commission must have experience in personnel management and are selected jointly by the Speaker of the House of Representatives and the President of the Senate.

Each of the eight members who are selected from lists of eligible voters must represent a different congressional district. A ninth congressional district has recently been created in Washington State.

Repeated unexcused absences from commission meetings by a member does not result in that member's seat being declared vacant. There is no statutory procedure to grant a member an excused absence from a commission meeting.

Summary: The number of members on the Washington Citizens' Commission on Salaries for Elected Officials is increased from 15 to 16. The additional member is selected by lot by the Secretary of State from lists of eligible voters from the newly created ninth Congressional district within the state.

The unexcused absence of a commission member from two consecutive commission meetings constitutes a relinquishment of that person's membership on the commission and creates a vacancy in that position. A procedure is created for a commission member to obtain an excused absence.

Votes on Final Passage:

House	94	0
Senate	46	1

Effective: February 10, 1995

HB 1041

C 7 L 95

Authorizing a trade association representing manufactured housing dealers to use a manufactured home as an office.

By Representatives Quall, Schoesler, Robertson and Sheldon.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: Vehicle dealers who buy and sell vehicles are required to have an established place of business. This "established place of business" must be a permanent commercial structure.

Manufactured home dealers are included as vehicle dealers, and must comply with the requirement to provide a permanent commercial structure as their established place of business. They are expressly authorized to use a mobile home as their business office if the structure is connected to utilities and is set up in accordance with state law.

There is no express authority for an association that represents manufactured home dealers to use a manufactured home as a business office.

Summary: A state-wide trade association representing manufactured home dealers is expressly authorized to use a manufactured home as a place of business if the manufactured home complies with all other applicable building code, zoning and other land-use regulatory ordinances.

Votes on Final Passage:

House	93	0
Senate	40	7

Effective: July 23, 1995

ESHB 1046

C 265 L 95

Amending the health services act of 1993.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Carlson, Kremen, Cooke, Horn, Schoesler, Buck, Johnson, Thompson, Beeksma, B. Thomas, Radcliff, Hickel, Chandler, Backlund, Mastin, Mitchell, Foreman, Sehlin, Ballasiotes, Clements, Campbell, Sheldon, L. Thomas, Huff, Mielke, Talcott, McMahan, Stevens and Lisk).

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

Background: The Washington Health Services Act, enacted in 1993, includes the following elements: universal access by 1999; employer mandates, which will require an exemption from the federal Employee

Retirement Income Security Act (ERISA) to implement; a uniform set of health services, including the uniform benefits package (UBP) and population-based public health services; assistance for low-income persons through expansion of the Basic Health Plan (BHP) and Medicaid; reformed insuring entities (Certified Health Plans—CHPs) and health purchasing insurance cooperatives (HPICs or alliances); capitated-managed care; a maximum premium (cap); state-wide health data system; a full-time Washington Health Services Commission to administer the act; and taxes on tobacco, alcohol, hospitals and certified health plans dedicated to the implementation of the act.

Since passage of the act, the state's private health insurance and service delivery system has experienced several major mergers, expanded outpatient care, and developed more integrated health care delivery systems. Inflation rates have moderated. State spending on public employee health benefits is below originally budgeted levels. More than 20,000 people are estimated to be newly enrolled in private insurance who had been excluded by private insurance "pre-existing" health condition limitations, and more than 50,000 children and working poor adults have enrolled in the Basic Health Plan or Medicaid.

The exemption from ERISA, however, was not obtained prior to the 1995 legislative session, preventing implementation of the requirement for employers to provide some assistance to employees in the purchase of health insurance.

Summary: BASIC HEALTH PLAN/MEDICAID EXPANSION. The Basic Health Plan (BHP) and Medicaid for children are identified as effective methods of expanding coverage for uninsured residents. The goals of 200,000 adult subsidized Basic Health Plan enrollees and 130,000 children covered through expanded Medicaid by June 30, 1997, are established. Beginning January 1, 1996, BHP enrollees whose income is less than 125 percent of the federal poverty level are required to pay at least a \$10 premium share.

By July 1, 1996, the Health Care Authority (HCA), in coordination with the Department of Social and Health Services (DSHS), must implement procedures whereby hospitals, health carriers, rural health care facilities, and community health clinics may expeditiously assist patients in applying for BHP and Medicaid. Similar procedures must be established for enrollee assistance from health insurance agents and brokers who may receive an enrollment commission, as determined by HCA, but the commission may not result in a reduction in the premium amount paid to health carriers.

HEALTH CARE SAVINGS ACCOUNTS. Health Care Savings Accounts, identified as an option to provide incentives for consumers to be responsible for the use and cost of their health care services and to promote savings for long-term care needs, are authorized by law. The Governor is directed to seek necessary federal waivers and

exemptions to allow contributions toward all health plans offered in the state to be fully tax deductible.

PORTABILITY OF BENEFITS. To establish portability of benefits from job to job, health carriers are required to waive preexisting condition exclusions or limitations for persons or groups who had similar health coverage under a different health plan (including self-funded plans) at any time during the three-month period immediately preceding the date of application for the new health plan if the person was continuously covered under the immediately preceding health plan. If the person was continuously covered for at least three months under the immediately preceding health plan, the carrier may not impose a waiting period for coverage of preexisting conditions. If the person was continuously covered for less than three months under the immediately preceding health plan, the carrier must credit any waiting period under the immediately preceding health plan toward the new health plan.

PREEXISTING CONDITION LIMITATIONS. The use of preexisting condition limitations is restricted. Health carriers may not reject, exclude, or deny a person coverage because of preexisting conditions, but health carriers are permitted to impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment within three months before the effective date of coverage.

RENEWAL OF HEALTH INSURANCE. Guaranteed issue and renewability of health insurance is established by requiring, with certain exceptions, health carriers to accept for enrollment any state resident within the carrier's service area and provide or ensure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, and socioeconomic status. Cancellation or nonrenewal is only permitted under the following circumstances: nonpayment of premium; violation of published policies of the carrier approved by the insurance commissioner; the failure of covered persons entitled to become eligible for medicare benefits by reason of age to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations; the failure of covered persons to pay any deductible or copayment amount owed to the carrier and not the provider of health care services; the commission of fraudulent acts as to the carrier; material breach of the health plan; or change to the implementation of federal or state laws that no longer permit the continued offering of such coverage.

HEALTH CARE PROVIDER INCLUSION IN HEALTH PLAN DELIVERY. Health carriers, after January 1, 1996, must permit every category of health care provider to provide health services included in the BHP to the extent that such services are within the providers' scope of practice and the providers agree to abide by standards related to cost containment requirement, management and

administrative procedures and cost-effective and clinically efficacious health services.

THE WASHINGTON HEALTH CARE POLICY BOARD. The Washington Health Care Policy Board is established consisting of five full-time members appointed by the Governor and four legislators, one legislator from the majority and one from the minority caucus of the Senate and House of Representatives. The chair is designated by the Governor. The Legislative Budget Committee will study the necessity of continuing the board after the year 2000. The board has the following powers and duties (see also the antitrust duties assigned to the board in SHB 1589):

- 1) periodically make recommendations to the Legislature and the Governor on issues including, but not limited to, the following: the scope, financing, and delivery of health care services; long-term care services; the use of health care savings accounts; rural health care needs; immigration into Washington as a result of health insurance reforms; medical education; community rating and its impacts on the marketplace including costs and access; quality improvement programs; models for billing and claims processing forms; guidelines to health carriers for utilization management and review, provider selection and termination policies, and coordination of benefits and premiums; and Medicare supplemental insurance.
- 2) review rules prepared by the insurance commissioner, HCA, DSHS, Department of Labor and Industries, and Department of Health;
- 3) make recommendations on a system for managing health care services to children with special needs;
- 4) develop sample enrollee satisfaction surveys that may be used by health carriers.

ADJUSTED COMMUNITY RATING. An adjusted community rate standard is established to spread the risk across the carrier's entire individual product population. The rate may vary for geographic area differences, family size, age, and wellness activities. The adjustment for age may not use age brackets smaller than five-year increments which must begin with age 20 and end with age 65. Ratios for the highest to lowest rates may not exceed 4.25 to 1 beginning in January 1996, 4.0 to 1 beginning in January 1997, and 3.75 to 1 beginning in January 2000. A discount for wellness activities is permitted to reflect actuarially justified differences in utilization or cost attributed to such programs, not to exceed 20 percent.

HEALTH INSURANCE COVERAGE OPTIONS. Beginning January 1, 1996, the following insurance coverage framework is established for individuals and employers who do not self-fund their employees' health coverage:

- 1) Individuals must be offered the Basic Health Plan schedule of services as a mandatory offering, which means that although all health carriers must offer it, no one is obliged to buy it. (BHP services include the following:

physician; hospital; emergency; lab and x-ray; ambulance; preventive care; maternity care; pharmacy; mammograms; reconstructive breast surgery; podiatry; phenylketonuria; home health care; hospice care; and prenatal diagnosis of congenital disorders.) Also, individuals may buy any insurance coverage that includes statutorily mandated benefits affecting individual coverage. (Mandates required for individual coverage include mammograms; reconstructive breast surgery; chiropractic services; podiatry; optometry; phenylketonuria; and prenatal diagnosis of congenital disorders.)

- 2) Employers with one to 25 employees can purchase any insurance coverage, and are exempt from mandated benefits (similar to current law).
- 3) Employers with 26 to 50 employees must be offered the Basic Health Plan schedule of services as a mandatory offering, but may purchase any insurance coverage that includes statutorily mandated benefits affecting group coverage. (The mandated benefits that affect group coverage include: mammograms; reconstructive breast surgery; chemical dependency; neurodevelopmental therapies; chiropractic services; podiatry; optometry; RNs/advanced RNs; phenylketonuria; home health care, hospice care; mental health treatment (offering); temporomandibular joint disorders; and prenatal diagnosis of congenital disorders.)
- 4) Employers with more than 50 employees may purchase any insurance coverage that includes statutorily mandated benefits affecting group coverage (similar to current law).
- 5) The adjusted community rate standards apply to all health insurance coverage for individuals and to coverage for groups under 50 enrollees.
- 6) Employers purchasing health plans provided through associations or through member-governed groups formed specifically for the purpose of purchasing health care are not deemed small employers for the purpose of these coverage options.

HEALTH CARE COMPLAINTS AND WHISTLEBLOWER PROTECTION. The identity of a person who complains, in good faith, to the Department of Health about the improper quality of care by a health care provider or in a health care facility is confidential. The person is protected from reprisal or retaliatory action under the government whistleblowers law and, as a worker, has remedies under the Law Against Discrimination.

Health carriers are required to establish an explicit process to deal with enrollee complaints.

CONSCIENCE CLAUSE. The conscience clause in the 1993 act is clarified. Providers are not required to provide, carriers are not required to cover, and employers are not required to purchase health services that conflict with religious or moral beliefs.

MEDICAID WAIVERS. The HCA, DSHS, and Office of Financial Management (OFM) are required to jointly

seek necessary Medicaid waivers to increase efficiencies in public health care expenditures.

REPEALERS. Several major elements of the 1993 act are terminated or repealed, including: the Washington Health Services Commission and its powers and duties; employer and individual mandates; maximum premium (cap); maximum enrollee financial participation; a mandatory managed care requirement; the statutory limitations on the legislative uniform benefits package approval process; uniform benefits package and community rating; anti-trust provisions (see anti-trust provisions in ESHB 1589); point-of-service cost-sharing; small business assistance program; health service information system; ERISA waiver request; registered employer health plan; premium depository for part-time workers; seasonal workers benefits; and limited dental health plan.

Votes on Final Passage:

House	71	27	
Senate	39	7	(Senate amended)
House	77	19	(House concurred)

Effective: January 1, 1995
January 1, 1996 (Section 13-18)

SHB 1047

C 231 L 95

Clarifying the process for defendants to pay restitution to their victims.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Sherstad, Benton, Dyer, Schoesler, Johnson, Thompson, Beeksma, Radcliff, Crouse, Carrell, Robertson, Blanton, Lambert, Fuhrman, L. Thomas, Huff, Mielke, McMahan and Casada).

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

Background: Courts must order convicted felons to pay restitution to their crime victims. Restitution must be set at sentencing or within 60 days of sentencing.

For purposes of paying restitution, the offender remains under the court's jurisdiction up to 10 years following the offender's release from confinement or 10 years after entry of the sentence, whichever period is longer. In contrast, the statute of limitations for enforcement of civil judgments generally is 10 years from entry of judgment. Restitution ordered in a criminal action may be enforced in the same manner as a civil judgment by the party to whom restitution is owed.

Summary: The period of time in which a court must set restitution is extended from 60 to 180 days. The court may

continue the hearing for good cause. This provision will apply retroactively in certain limited circumstances.

The court may not reduce the total amount of restitution ordered because the offender might not have the ability to pay the total amount.

The court must identify the victim or victims entitled to restitution. Restitution collected through civil enforcement must be paid through the court registry. If there is more than one victim, each victim will receive a proportionate share of restitution collected.

The statute of limitations concerning enforcement of civil judgments is amended to correspond to the supervision time period for collection of restitution.

Votes on Final Passage:

House	96	0	
Senate	43	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 23, 1995

SHB 1053

C 205 L 95

Changing the limitations on the use of wood stoves.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Horn, Chandler and Sheldon).

House Committee on Agriculture & Ecology
Senate Committee on Ecology & Parks

Background: Permanent and Temporary Wood Smoke Bans: Current law allows local air authorities to permanently ban the use of non-certified wood stoves beginning July 1, 1995.

Current law also creates a two-stage system for temporarily banning the use of wood stoves and fireplaces during periods of "impaired air quality". The first stage of impaired air quality occurs when small particulate matter (less than 10 microns in diameter, otherwise known as PM-10) is measured at 75 micrograms per cubic meter or carbon monoxide is measured at eight parts per million over an eight hour period. The second stage of impaired air quality occurs when PM-10 averages 105 micrograms per cubic meter over 24 hours.

Non-certified wood stoves and fireplaces are temporarily banned when a first stage of impaired air quality occurs. All wood stoves and pellet stoves are banned during a second stage of impaired air quality. Temporary bans do not apply to a residence or business that uses wood as its only adequate source of heat.

Current law provides for that only a single stage system of impaired air quality when a local air authority permanently bans non-certified wood stoves. Under a single stage system, all certified wood stoves and pellet stoves are banned when PM-10 levels reach 90 micrograms per hour over a 24 hour period.

Federal Planning Requirements: The federal Clean Air Act requires the state or local implementing entity to submit an implementation plan for areas that do not meet federal air quality standards. An implementation plan must identify the specific actions that will be taken to bring the area into compliance with federal standards. Section 172(c)(9) of the federal act requires that the implementation plan include specific contingency actions in the event that the actions listed in the implementation plan do not result in attainment of the federal air standards or in "reasonable further progress" toward the standards. The federal Environmental Protection Agency requires that the state or local implementing entity has specific legal authority to enforce implementation of any action identified in the implementation plan. Permanent and temporary wood smoke bans are actions that the state and local air authorities may include in implementation plans submitted to the federal Environmental Protection Agency.

Sale or Advertising of Non-Certified Wood Stoves:

Current law prohibits the sale of new wood stoves that do not meet the most recent emission standards. It is also illegal to advertise the sale of a new wood stove that does not meet current standards.

Summary: A local air authority or the Department of Ecology may permanently ban non-certified stoves only if the EPA makes a written finding that emissions from wood stoves are a contributing factor to the area failing to meet or maintain federal air quality standards, and the ban is identified as a contingency measure in state implementation plans.

The ban does not apply to a person or business that uses wood as its only adequate source of heat. The provision is deleted that provides for a single stage system of impaired quality when non-certified wood stoves are banned. Non-certified wood stoves may be sold, or advertised for sale, to non-state residents.

Votes on Final Passage:

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

Effective: July 23, 1995

SHB 1057

C 6 L 95 E2

Lowering the tax rate on canola.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Schoesler, Morris, B. Thomas, Delvin, Carlson, Hankins, Dyer, Sheldon, Casada, Chandler, L. Thomas, Fuhrman, Mulliken, Lisk, Cooke, Sheahan and Mastin).

HB 1058

House Committee on Agriculture & Ecology
House Committee on Finance
Senate Committee on Ways & Means

Background: The primary business and occupation (B&O) tax rate on manufacturing and on wholesale sales is 0.484 percent. For manufacturing, the rate is applied to the value of the products manufactured. Until June 30, 1997, this rate is increased by a surcharge of 4.5 percent multiplied by the primary rate. As increased by the surcharge, the rate is 0.50578 percent. The surcharge statute permits the Department of Revenue to round the surcharged rates to the nearest one-thousandth of one percent, which it has done in the tax schedules published to date. As rounded off, the rate is 0.506 percent.

A number of exceptions to this primary rate are provided by statute. The B&O tax rate for the wholesale sale of wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye, and barley is 0.011 percent. Although the surcharge also applies to this special rate until June 30, 1997, the rate remains 0.011 percent as rounded off. The B&O tax rate for manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, and sunflower seeds into sunflower oil is 0.138 percent. As increased by the surcharge, the rounded off rate is 0.144 percent until June 30, 1997.

Summary: The B&O tax rate for wholesale sales of canola is reduced to the same rate that applies to such sales of wheat. The new rate is 0.011 percent with or without the rounded surcharge. The B&O tax rate for manufacturing canola into canola oil, canola meal, or canola by-products is reduced to the rate that applies to manufacturing wheat into flour. The new rate is 0.138 percent. With the surcharge which expires on June 30, 1997, the new rate is 0.144 percent as rounded off.

Votes on Final Passage:

House 92 0

First Special Session

House 93 4

Second Special Session

House 88 5

Senate 32 14

Effective: July 1, 1995

HB 1058

C 163 L 95

Affecting the repeal of liquor vendors' appeals as authorized by RCW 41.06.150.

By Representatives Horn and Sheldon; by request of Liquor Control Board.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: The Washington State Liquor Control Board has authority to appoint liquor vendors in

communities where no state liquor store exists. These vendors sell liquor either through existing private retail businesses or as a separate business.

For many purposes, they are considered independent contractors rather than state employees. They are not part of the state retirement system. They currently may not receive health insurance coverage as state employees. Effective January 1, 1994, the IRS has ruled that liquor vendors appointed by the board are treated as independent contractors for tax purposes.

Liquor vendors are exempt from the civil service system. However, those who sell liquor, excluding those who sell in addition to their private retail businesses, do have a statutory right to appeal to the state Personnel Resources Board. The state Personnel Resources Board sets the policies that govern state employees who are part of the state's civil service system.

Summary: Liquor vendors who are appointed by the Liquor Control Board to sell liquor in communities where no state liquor store exists are no longer subject to the state civil service system and the rules of the state Personnel Resources Board.

Votes on Final Passage:

House 96 0

Senate 47 0

Effective: May 1, 1995

HB 1059

C 100 L 95

Improving the enforcement provisions of the Washington state liquor act.

By Representatives Lisk and Sheldon; by request of Liquor Control Board.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: Liquor From Out-of-State for Personal Use. Persons over 21 years of age may bring a reasonable amount of liquor into the state of Washington if they pay the equivalent of the markup and taxes that would have been paid for the same or similar liquor purchased at a state liquor store.

Employees Between the Ages of 18 and 21. Possession, consumption, or acquisition of alcohol is generally prohibited for those persons under the age of 21. Certain exceptions have been authorized for employees between the ages of 18 and 21 who work for retail licensees. If supervised by someone 21 years of age or older, these underage employees may sell, stock, and handle beer and wine for specified licensed retailers, and may serve and sell liquor in licensed retail establishments excluding any areas that are designated "off limits" to persons under the age of 21.

Business Entertainment Practices. Under the "tied-house" law, liquor manufacturers, importers, and wholesalers are prohibited from advancing moneys or moneys' worth to licensed retailers. In 1990, a law was enacted that allowed manufacturers, importers, and wholesalers to provide food and beverage for consumption at a business meeting with licensed retailers. In addition, manufacturers, importers, and wholesalers may provide licensed retailers with tickets to athletic events or other forms of entertainment if the manufacturer, importer, or wholesaler accompanies the licensed retailer to the event. Both of these provisions expire June 30, 1995.

Summary: Liquor From Out-of-State for Personal Use. A person 21 years of age or older may bring into the state of Washington from another state up to two liters of spirits or wine, or 288 ounces of beer once a month without paying the state markup or the applicable taxes.

Employees Between the Ages of 18 and 21. Employees between the ages of 18 and 21 who work for nonretail licensees (wholesalers, manufacturers, breweries, wineries) may stock, merchandise, and handle beer or wine on the nonretail premises if supervised by someone 21 years of age or older.

Business Entertainment Practices. The expiration date is repealed, allowing the business practices currently authorized between wholesalers, importers, and manufacturers and licensed retailers to continue.

Votes on Final Passage:

House	93	3
Senate	41	0

Effective: April 19, 1995

HB 1060

PARTIAL VETO

C 232 L 95

Improving the licensing sections of the Washington state liquor act.

By Representatives Lisk and Sheldon; by request of Liquor Control Board.

House Committee on Commerce & Labor
 House Committee on Appropriations
 Senate Committee on Labor, Commerce & Trade

Background: Uncontested and Unopposed Applications. The Washington State Liquor Control Board has sole authority to grant or refuse an application for a liquor license. As part of the application process, the appropriate city, town, or county authority is notified and may submit objections to the application. For certain licenses, the proximity to churches, schools, and public institutions may also generate objections.

License Transfers. A licensee may transfer a license to another qualified person, or may transfer the location of

the licensed premises for a fee of \$75. No transfer is allowed if the transfer includes both a change in licensee and a change in location of the licensed premises. Licenses may be transferred with no charge to the surviving spouse of a deceased licensee.

Use of Revenue Stamps. Taxes imposed on the sale of beer and wine may be collected by the use of revenue stamps or direct payments. The use of revenue stamps has been discontinued by the Liquor Control Board.

Inconsistency in Size of Beer Containers. Class A (restaurants and dining places) and Class B (taverns) licensees may sell beer for consumption off premises if the beer is in the manufacturer's original sealed container of not less than seven and three-fourths gallons. Beer kegs or containers of not less than four gallons must be registered when sold by a licensed retailer holding a Class A or B license in combination with a Class E license (grocery stores, and others).

Class I (Caterer's) License. There is a special-occasion license known as a Class I caterer's license. It allows certain existing retail licensees (Class A, B, D, and public H) to sell liquor for consumption on the premises at a special event located away from the licensed premises. The license may be issued on a per day basis for a fee of \$25 a day or on an annual basis for a fee of \$350.

Price Posting. Breweries, wineries, beer and wine wholesalers and importers, and those holding certificates of approval from the board may not modify any prices without prior notification and approval of the board. The board has adopted rules to implement this provision.

Extending Class H Liquor Licenses. Under limited circumstances, a Class H licensee may extend a Class H license to another location. For example, a Class H licensee who provides food service at public civic centers having sport and entertainment facilities may extend their liquor license privileges to additional locations on the premises under duplicate licenses issued by the liquor control board. There is no specific provision that allows a hotel corporation that owns or leases non-contiguous property to operate food and alcoholic beverage service for special events open to the public.

Summary: Uncontested and Unopposed Applications. The Liquor Control Board may grant to a designated employee of the board, the authority to approve uncontested and unopposed applications for a liquor license. The grant of authority must be in writing. The Board will establish the criteria for granting this authority by rule.

License Transfers. Transfers of existing licenses and the transfer fee are eliminated. A change of licensee or a change of location requires a new license application and fee. A license continues to be transferable at no charge to a surviving spouse with the approval of the Board.

Use of Revenue Stamps. The provisions relating to the use of revenue stamps to collect liquor taxes for wine and beer are eliminated.

SHB 1062

Inconsistency in Size of Beer Containers. Class A and B licensees may sell beer for consumption off premises if the beer is in the manufacturer's original sealed container of not less than four gallons. This provision is consistent with the minimum keg or container size that is required for keg registration.

Class I (Caterer's) License. The per-day license fee option for a Class I caterer's license is eliminated leaving only an annual license fee.

Price Posting. The Liquor Control Board is given explicit authority to require beer and wine wholesalers and manufacturers to file with the board prices at which they will sell beer and wine in this state. Prices cannot be changed unless specific procedures are followed. Price information is not confidential.

Extending Class H Liquor Licenses. A Class H licensed hotel may extend its Class H license to other property it owns or leases that is located in the same metropolitan area and used as a convention, conference center, or banquet facility for special events by the public.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 23, 1995

Partial Veto Summary: The Governor vetoed provisions allowing a Class H licensed hotel to extend the license to other property owned or leased by the hotel. (These provisions duplicated those contained in SB 5563.)

VETO MESSAGE ON HB 1060

May 5, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 8, House Bill No. 1060 entitled:

"AN ACT Relating to improvements to the licensing sections of the Washington state liquor act;"

This bill provides additional flexibility to the Liquor Control Board allowing greater responsiveness in its regulatory functions.

Section 8 of the bill would allow Class H licensed hotels to extend their licenses to property owned or leased for use as a conference, convention center, or banquet facility. Identical language extending this authority was included in Senate Bill No. 5563 which has already been signed into law. Vetoing this duplicate section will avoid unnecessary cross referencing requirements in the Revised Code of Washington.

For this reason, I am vetoing section 8 of House Bill No. 1060.

With the exception of section 8, House Bill No. 1060 is approved.

Respectfully submitted,

Mike Lowry
Governor

SHB 1062

C 101 L 95

Using juvenile serious violent offenses as criminal history for adult sentencing.

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, Koster, Cooke, Costa, Schoesler, Morris, Boldt, Benton, Foreman, Sheldon, Kremen, Mastin, Lisk, Chandler and Carlson).

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

Background: The sentencing of adult felons is governed by Washington's Sentencing Reform Act (SRA). The SRA sets up standard sentence ranges based on two factors: the seriousness of the crime of conviction and the extent of the defendant's criminal history.

Criminal history, for purposes of the SRA, can sometimes include offenses that the defendant committed as a juvenile. The rules for including these juvenile offenses are as follows:

- Previous juvenile sex offenses are always included.
- Other class A juvenile felonies are included only if the offender committed the offense while aged 15 years or older.
- Other class B and C juvenile felonies are included only if the offender committed the offense while aged 15 years or older and the offender was 22 years or less at the time the current offense was committed.

When a juvenile offense is not included as criminal history under these rules, the offense is said to "wash out."

A concern exists about the washing out of previous juvenile adjudications for serious violent offenses. Serious violent offenses are defined as first degree murder, homicide by abuse, second degree murder, first degree assault, first degree kidnapping, first degree rape, first degree assault of a child, as well as any attempt, criminal conspiracy or criminal solicitation to commit these offenses. All serious violent offenses are class A felonies.

Summary: Previous juvenile adjudications for serious violent offenses are always included in an adult felon's criminal history under the SRA.

Votes on Final Passage:

House	98	0
Senate	44	0

Effective: July 23, 1995

HB 1063

C 135 L 95

Making technical corrections.

By Representatives Padden and Mastin; by request of Law Revision Commission.

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

Background: In a given legislative session, two or more bills may amend the same section of the Revised Code of Washington. When this happens, and neither bill refers to or incorporates the changes from the other, a so-called "double" or "multiple" amendment occurs. Most often, there is no substantive conflict between the multiple amendments to a section of the code. However, sometimes even though there is no substantive conflict, merging multiple amendments may require some restructuring of a section for grammatical or other reasons.

Over the years, changes in the designations of various agencies and entities have been made in the code. Occasionally, older and now obsolete references to previous designations remain.

Sometimes a single section of the code may contain obsolete references and may also have been the subject of multiple amendments. For instance, a section in the election code was amended twice in 1993. That same section contains a reference to the "state central committee" as the entity to which information on registered voters is to be sent. Another section of the election code, however, had previously been amended to allow not just the central committees, but "political party organizations" to request that information. Thus, the section on who is to receive the information is out of date with the section on who may request the information. (RCW 29.04.160)

Sometimes provisions of the code remain even though the substance of the provisions is obsolete. For instance, in 1977 the Legislature abolished the "state printing and duplicating committee." The provision that abolished the committee, and several related provisions, remain in the code. (RCW 43.19.640 through 43.19.665)

The Law Revision Commission is charged with reviewing the code and suggesting improvements to the Legislature. The commission has identified a number of technical corrections, including reconciling multiple amendments and deleting obsolete references, that it is recommending to the Legislature.

Summary: Various sections of the Revised Code of Washington are reenacted to merge multiple amendments made in previous legislative sessions. Various obsolete references are removed or corrected.

Votes on Final Passage:

House	96	0
Senate	41	0

Effective: July 23, 1995

HB 1064

C 164 L 95

Correcting unconstitutional provisions relating to resident employees on public works.

By Representatives Padden and Appelwick; by request of Law Revision Commission.

House Committee on Law & Justice
Senate Committee on Government Operations

Background: With some exceptions, an existing statute requires a certain percentage of employees on all public works contracts to be Washington residents. RCW 39.16.005 provides in part:

In all contracts let by the state . . . or any county, city . . . for the erection, construction, alteration, demolition, or repair of any public building . . . or any other kind of public work or improvement, the contractor or subcontractor shall employ ninety-five percent or more bona fide Washington residents as employees where more than forty persons are employed, and ninety percent or more bona fide Washington residents as employees where forty or less persons are employed . . .

The United States Supreme Court and Washington Supreme Court have held that residency requirements are constitutional only if nonresidents constitute a "peculiar source of evil" the legislation is reasonably designed to overcome. Economic protectionism is an insufficient reason for such legislation.

In 1982, the Washington Supreme Court declared this state's public works statute unconstitutional. Laborers Local 374 v. Felton Construction, 98 Wn.2d 121 (1982).

As part of its duties, the Law Revision Commission is directed "[t]o recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the supreme court of the state or the supreme court of the United States." (RCW 1.30.040) The commission recommends repealing the public works laws containing residency requirements.

Summary: Residency requirements for employees on public works contracts are repealed.

A cross-reference to the repealed requirements is removed.

Votes on Final Passage:

House	96	0
Senate	40	0

Effective: July 23, 1995

SHB 1067

C 165 L 95

Reforming the property taxation of short-rotation hardwoods.

By House Committee on Finance (originally sponsored by Representatives Schoesler, Grant, Hankins, Delvin, Mastin and Sheldon).

House Committee on Finance
Senate Committee on Ways & Means

Background: Timber is not subject to property taxes, but the harvesting of timber is subject to a state excise tax at a rate of 5 percent of its stumpage value. However, the normal tax status of timber and timber harvesting does not apply to Christmas trees that are intensively cultivated. Christmas trees that are intensively cultivated are subject to property taxes, along with the land on which the Christmas trees are grown. The harvesting of Christmas trees is not subject to the state excise tax on harvesting timber.

Forest land, but not including the timber on such land, is subject to property taxes. Two separate programs exist for valuing forest land for property tax purposes using the current use value of the land. Under the primary current use valuation program, the value of forest land is based upon its current use value for growing and harvesting timber if the forest land is in contiguous ownership of 20 or more acres and is primarily devoted to growing and harvesting timber. A second current use valuation program is the timber land portion of the open space valuation program. Land may be classified as timber land under the open space current use valuation program, and valued at its current use value for property tax purposes, if the land is at least five contiguous acres and is devoted primarily to the growth and harvest of forest crops for commercial purposes.

Summary: The tax status of short-rotation hardwoods and the harvesting of short-term hardwoods is altered.

Short-rotation hardwoods are subject to property taxes. The land upon which short-rotation hardwoods are grown may not be included under the primary current use valuation program for forest land. However, the land upon which short-term rotation hardwoods are grown may be included under the timber land portion of the open space current use valuation program. The state excise tax on harvesting timber does not apply to the harvesting of short-rotation hardwoods, unless the land upon which the short-rotation hardwoods are grown is classified under the timber land portion of the open space current use valuation program.

Short-rotation hardwoods are defined to be hardwood trees, such as hybrid cottonwoods, that are cultivated by agricultural methods in growing cycles shorter than 10 years.

Votes on Final Passage:

House	90	2
Senate	40	0

Effective: July 23, 1995

HB 1068

C 102 L 95

Preserving port district debt limits.

By Representatives Brumsickle, Chappell and Radcliff.

House Committee on Government Operations
Senate Committee on Government Operations

Background: Constitutional and statutory limitations on local government indebtedness. Article VIII, section 6, of the state constitution, establishes two limitations on the cumulative amounts of general indebtedness that a local government may incur. The first limitation restricts the cumulative amount of general indebtedness that may be incurred without voter approval. The second limitation is a greater amount that applies only if voters authorize general indebtedness. This second limitation restricts the total cumulative amount of general indebtedness that may be incurred, with or without voter approval.

Normally, statutes reduce both cumulative general indebtedness limitations below the constitutional limitations. The statutory limitations vary for different types of local government.

Local government general indebtedness limitations are described in terms of a dollar amount of indebtedness not exceeding a certain percentage of the value of taxable property within the local government.

Varying limitations on port district indebtedness. Statutes classify port districts by a variety of different factors and establish varying limitations on the amount of general indebtedness that such classes of port districts may incur.

As a general rule, a port district may incur non-voter approved general indebtedness not exceeding one fourth of 1 percent of the value of taxable property in its boundaries.

There are a number of exceptions to this general rule. For instance, a port district with less than \$800 million in value of taxable property may incur non-voter approved general indebtedness not exceeding three-eighths of 1 percent of the value of taxable property in the district. This special indebtedness limitation only applies if the port district has a comprehensive plan for harbor improvements or industrial development and a long-term financial plan that is approved by the Department of Community Development. Further, this higher level of indebtedness may only be used to acquire or construct a facility for which a lease contract exists for a minimum of five years.

Summary: The classification of port districts to which a special indebtedness limitation applies is altered. The affected classification allows port districts with less than \$800 million in value of taxable property to incur

non-voter approved general indebtedness of up to three-eighths of 1 percent of the value of taxable property in the district for purposes of acquiring or constructing a facility for which a lease contract exists for a minimum of five years.

The language establishing the class of such port districts is altered, from any port district with less than \$800 million in value of taxable property, to any port district that had less than \$800 million in value of taxable property in 1991.

Votes on Final Passage:

House	88	5
Senate	45	0

Effective: July 23, 1995

SHB 1069

C 392 L 95

Exempting retired law enforcement officers from restrictions on carrying firearms.

By House Committee on Law & Justice (originally sponsored by Representatives Delvin, Wolfe, Mielke, Ebersole, Ballasiotes, Sheldon, Mastin, Carlson, McMorris, Carrell, Robertson, Hickel, Sheahan, Reams, Benton, Padden, Boldt, Hargrove, Chandler, McMahan, Cairnes, Clements, Chappell, Buck, Campbell, L. Thomas, Johnson, Backlund, Cooke, Conway, Kessler, Costa, Mulliken, Kremen, Dickerson, Quall, Basich, Fuhrman, Morris, Huff, Mitchell, Honeyford, Pennington, Elliot, Schoesler, D. Schmidt, Dyer and Appelwick).

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

Background: Persons are generally prohibited from carrying a concealed pistol without a license. Except for in a person's home or place of business, a concealed pistol license is required before a person may legally carry a concealed pistol. A concealed pistol license costs \$50 every four years.

A person may apply to the city or county of his or her residence for a concealed pistol license. Certain qualifications must be met before a person may be issued a concealed pistol license. A person who applies for a concealed pistol license must:

- Be eligible to possess a firearm;
- Be 21 or older;
- Not be subject to an injunction regarding firearms;
- Not be pending trial, appeal, or sentencing for certain felony offenses;
- Not be subject to an outstanding arrest warrant for any crime; and
- Not have been within the past year ordered to forfeit a firearm for possessing a concealed firearm while in-

toxicated in a place where a concealed pistol license is required.

In addition to this requirement regarding concealed pistols, the law contains a general prohibition against the open carrying of any firearm. With numerous exceptions, no one may carry a firearm unless the firearm is unloaded and enclosed in an opaque case or secure wrapper. The exceptions to this prohibition apply to being on one's own property or in an area where shooting is not prohibited, and also apply to engaging in and travelling to and from activities such as hunting, trapping, firearms' training, target practice, and firearms' competition. 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.

Certain individuals are exempted from the requirement for a concealed pistol license and from the requirement that a firearm be carried in an opaque case or secure wrapper. Those who are exempted include: law enforcement personnel; military personnel while on duty; other government personnel authorized to carry concealed pistols; persons engaged in the business of manufacturing, repairing, or dealing in firearms while in the course of business; members of groups authorized to receive pistols from the government; members of target shooting clubs or collectors clubs while shooting or exhibiting firearms or while en route to or from their practice or exhibition places; and hunters while hunting.

Summary: Certain retired law enforcement officers are exempted from the requirement of having a license to carry a concealed pistol and from the general prohibition against openly carrying a firearm. The exemption applies to officers who have been retired for service or physical disabilities. The exemption does not apply to officers who have been retired for mental or stress-related disabilities. To be eligible for this exemption, a retired officer must get documentation from his or her former agency that retirement was for service or physical disability.

Votes on Final Passage:

House	93	5
Senate	40	5

Effective: July 23, 1995

2ESHB 1070

PARTIAL VETO

C 16 L 95 E2

Adopting the capital budget.

By House Committee on Capital Budget (originally sponsored by Representatives Sehlin, Ogden, Dellwo,

2ESHB 1070

Schoesler, Sheahan and Chopp; by request of Office of Financial Management).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The capital budget is one of three budgets used in Washington State to govern state agency expenditures during the state's two-year fiscal biennium. The capital budget includes appropriations for acquisition, construction, and repair of state office buildings, public schools, colleges and universities, prisons, parks, local government infrastructure, and other long-term facility and land investments. In recent years, the primary funding source used to fund projects authorized in the capital budget has been the sale of state bonds, with the balance coming from dedicated taxes and fees, revenues from state trust lands, and federal grants.

Summary: The state capital budget for the 1995-97 fiscal biennium is adopted. The budget authorizes \$1,639,565,234 in new capital projects, including \$811,149,839 in projects funded from state bonds. Projects authorized in previous capital budgets totalling \$26,815,855, including \$26,515,855 in projects funded from state bonds, are not authorized to continue into the 1995-97 biennium. As a result of these reappropriation reductions, the effective 1995-97 capital budget totals \$1,612,749,379, including \$784,633,984 in state bonds.

In addition to the new projects authorized in the budget, \$1,281,901,473 in projects authorized in previous capital budgets but not yet complete are reauthorized for the 1995-97 biennium. These reappropriated projects include \$776,925,480 in projects funded from state bonds.

Conditions and limitations on the use and expenditure of appropriations and reappropriations in the budget are established.

Thirty lease-purchase, lease-development, and long-term lease projects, totalling \$246,815,000, are authorized.

Two studies of fiscal issues related to the capital budget are directed:

- (1) The Board of Natural Resources must evaluate the feasibility of establishing a pooled revenue distribution system for state trust lands.
- (2) The State Board of Education must conduct a pilot program to determine the potential advantages and savings of value engineering and constructability reviews on school facility construction. The state board must also conduct a study to determine potential policy changes regarding state financial assistance to small school districts with less than 25 percent taxable property.

The Department of Natural Resources must submit information regarding the economic assumptions and forecast methodologies used to develop state trust land revenue forecasts to the Economic and Revenue Forecast Council. The council must include the state trust land revenue forecast in its quarterly forecast report.

The Office of Financial Management and the Department of General Administration must review projects involving the construction or expansion of state office facilities for compliance with state office standards and possible consolidation or collocation. The Washington State Patrol, the Department of Licensing, and the Department of Ecology must coordinate facility siting and program delivery activities related to driver licensing, vehicle registration, vehicle inspection, and emission testing in order to improve client services.

Votes on Final Passage:

House	63	34	
Senate	27	19	(Senate amended)
House			(House refused to concur)

First Special Session

House	84	13	
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Second Special Session

House	79	14	
Senate	28	19	(Senate amended)
House			(House refused to concur)
Senate	34	14	(Senate amended)
House	78	16	(House concurred)

Effective: June 16, 1995

Partial Veto Summary: The Governor vetoed budget proviso language that established conditions and limitations on the expenditure of funds for four capital projects, listed below. The vetoes do not, however, affect the amount of funds available for the projects, nor the total amount appropriated in the capital budget.

Section 243(3) Department of Social and Health Services - Green Hill School: The Governor vetoed a proviso requiring that the residential housing units constructed at Green Hill School be designed to accommodate a sustained operating capacity of at least 42 residents.

Section 249(2) Department of Social and Health Services - Camp Bonneville: The Governor vetoed a proviso that permitted the department to use up to \$5,000 to acquire the closed federal military base at Camp Bonneville for a future juvenile facility.

Section 276(5) Department of Corrections - Larch Corrections Center: The Governor vetoed a proviso that prohibited the department from housing alien offenders at Larch Corrections Center after January 1, 1996.

Section 327(5) Interagency Committee for Outdoor Recreation - Washington Wildlife and Recreation Program: The Governor vetoed a proviso that required that acquisitions under the program be deemed public improvements for the purposes of RCW 8.26.180 (governing the determination of value).

VETO MESSAGE ON HB 1070-S

June 16, 1995

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 243(3), 249(2), 276(5), and 327(5), Second Engrossed Substitute House Bill No. 1070 entitled:

"AN ACT Relating to capital budget."

The 1995-97 capital budget enacted by the legislature defers maintenance on some existing facilities and initiates a number of major new projects and programs. The future cost of continuing these new initiatives will create more competition for declining resources under the statutory debt limit. I am concerned about the high future costs inherent in this approach to the capital budget and will work diligently with the legislature in the future to ensure that an appropriate balance is struck between new program needs and protection of existing assets.

Section 243(3), page 43, Green Hill School (Department of Social and Health Services)

The proviso language of section 243(3) requires that residential housing units constructed at Green Hill School must "accommodate a sustained operating capacity of at least 42 residents." This proviso dictates design capacity before critical master planning for the Green Hill site has been completed. Residential space should be suitable for a variety of security levels and their attendant programming needs, as well as changes in use of the facility. Every effort will be made by the Department to achieve the most appropriate and cost-effective design capacity allowed by programming and site restrictions and a highest and best use analysis of existing structures on the campus.

Section 249(2), page 45, Camp Bonneville (Department of Social and Health Services)

The proviso language of section 249(2) enables the Department of Social and Health Services to use up to \$5,000 of the appropriation for minor works at Juvenile Rehabilitation group homes for the purpose of acquiring the federal military base at Camp Bonneville for a future juvenile rehabilitation facility should it be closed. Recently, the community has indicated an interest in pursuing more appropriate alternatives for the base. Although the proviso is permissive, it may present unnecessary competition to the community effort.

Section 276(5), page 52, Larch Corrections Center (Department of Corrections)

The proviso language of section 276(5) prohibits the Department of Corrections from housing alien offenders at the Larch Corrections Center on or after January 1, 1996. Due to the impact of current drug sentencing laws, a large proportion of the alien offender population is eligible for minimum security classification. As part of the Department's strategy for effectively managing offenders, alien offenders are distributed throughout the minimum security camps in the system. Excluding this population from the Larch Corrections Center would result in a disproportionate number of alien offenders in the other minimum camps resulting in ethnic and racial imbalances, which could lead to increased offender management problems. In addition, this restriction could result in minimum custody alien offenders assigned to medium custody facilities, resulting in higher costs for these offenders than is necessary.

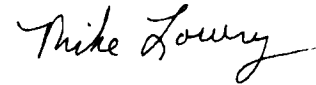
Section 327(5), page 61, Washington Wildlife and Recreation Program (Interagency Committee For Outdoor Recreation)

The proviso language of section 327(5) requires that all new acquisitions under the Washington Wildlife and Recreation Program (WWRP) fall under the state's eminent domain statutes. The original issue which this language was intended to address has been dealt with administratively, leaving this proviso unnecessary.

For these reasons, I have vetoed the proviso language of sections 243(3), 249(2), 276(5), and 327(5), Second Engrossed Substitute House Bill No. 1070.

With the exceptions of sections 243(3), 249(2), 276(5), and 327(5), Second Engrossed Substitute House Bill No. 1070 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 1071

C 17 L 95 E2

Authorizing general obligation bonds for costs incidental to the 1995-97 biennium.

By House Committee on Capital Budget (originally sponsored by Representatives Sehlin, Ogden and Dellwo; by request of Office of Financial Management).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The State of Washington periodically issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge the full faith and credit and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate. Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds are deposited, as well as the source of debt service payments. The state finance committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for supervising and controlling the issuance of all state bonds.

Cities and towns are authorized to refund bonds payable from specific revenue sources, including public utilities, by issuing general obligation bonds. Counties are not authorized to refund revenue bonds by issuing general obligation bonds.

Summary: The state finance committee is authorized to issue \$811 million of state general obligation bonds to finance projects appropriated in the 1995-97 capital budget. The proceeds of the sale of the bonds are deposited into five accounts: \$780 million is deposited into the state building construction account; \$20 million is deposited into the outdoor recreation account; \$18.6 million is deposited into the habitat conservation account; \$2.9 million is deposited into the public safety reimbursable bond account; and \$10 million is deposited into the higher education construction account.

The state treasurer is authorized to withdraw from state general revenues the amounts necessary to make principal

ESHB 1076

and interest payments on the bonds. For bond proceeds deposited into the public safety reimbursable bond account, the state treasurer is authorized to reimburse the general fund for principal and interest payments from the public safety and education account. For bond proceeds deposited into the higher education construction account, the University of Washington is required to reimburse the general fund for principal and interest payments from nonappropriated local funds.

Counties are authorized to refund bonds payable from specific revenue sources, including public utilities, by issuing general obligation bonds.

Votes on Final Passage:

House 63 33

First Special Session

House 65 32

Second Special Session

House 67 26

Senate 30 17

Effective: August 24, 1995

ESHB 1076

C 166 L 95

Revising account names and accounting procedures of the IAC.

By House Committee on Capital Budget (originally sponsored by Representatives Sehlin and Ogden; by request of Interagency Committee for Outdoor Recreation).

House Committee on Capital Budget
Senate Committee on Ecology & Parks

Background: The Interagency Committee for Outdoor Recreation (IAC) administers several programs that provide grants to state and local agencies for outdoor recreation and habitat conservation projects. The IAC was originally created in 1964 to implement the Initiative 215 Boating Facilities Program (I-215). Since 1964, the IAC has gained responsibility for managing other capital grant programs, including the Non-Highway and Off-Road Vehicle Activities Program (NOVA), and the Washington Wildlife and Recreation Program (WWRP).

Currently, many of the capital grant programs within the IAC are managed through one account, the Outdoor Recreation Account (ORA). The ORA receives revenue from a number of sources, including a portion of the state gas tax paid by boat and off-road vehicle users, off-road vehicle permit fees, and the sale of general obligation bonds. These distinct revenue sources, each of which corresponds to one of the IAC grant programs, must be accounted for separately by the IAC within the ORA. Agencies requesting funding from one of the grant pro-

grams within the ORA must submit a six-year facility plan to the IAC for evaluation.

The amount of gas tax revenue deposited in the ORA for the I-215 grant program is determined by a survey of boat users conducted by the Department of Licensing (DOL). If a survey results in a change in the amount of gas tax attributed to boat users, DOL must adjust the revenues deposited into the ORA on a retroactive basis, to the midpoint of the survey period.

I-215 capital grants are divided equally between state and local government boating-related projects. Currently, the IAC allocates I-215 grants to local governments through a competitive application process, while state agencies receive I-215 grants directly through capital budget appropriations based on IAC recommendations.

Summary: Two new accounts are created in the state treasury for the purpose of segregating IAC grant programs and revenues for accounting purposes. A new Recreation Resource Account is created to receive revenues from the portion of the state gas tax paid by boat users in order to fund grants to state and local governments for boating-related recreation projects. A new Non-Highway and Off-Road Vehicle Activities Program Account (NOVA Account) is created to receive revenues from the portion of the state gas tax paid by off-road vehicle users and from off-road vehicle permit fees in order to fund grants to public agencies for off-road and non-highway facilities and activities.

The Outdoor Recreation Account is retained in the state treasury to receive state and federal revenues for outdoor recreation and habitat programs, including the Washington Wildlife and Recreation Program (WWRP).

Rather than submitting a six-year facility plan to the IAC, agencies must instead submit a long-term facility plan in order to qualify for IAC grant funding.

The effective date of revenue adjustments resulting from the gas tax surveys conducted by the Department of Licensing for the I-215 program is changed. Instead of becoming effective retroactively, adjustments due to the survey results are effective in the biennium following the survey.

With regard to the allocation of I-215 funding to state agencies, the state agency portion of I-215 funding is appropriated to the IAC instead of directly to state agencies. State agencies are eligible to compete for I-215 grants from the IAC. The IAC must submit a list of prioritized state agency projects to be funded under the I-215 program with its biennial budget request.

Votes on Final Passage:

House 98 0

Senate 42 0

Effective: July 23, 1995

ESHB 1080

C 206 L 95

Establishing an exemption to the outdoor burning permit program for certain nonurban areas.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Pennington, Chappell, McMorris, Carlson, Benton, McMahan, B. Thomas, Clements, Brumsickle, Boldt, Hatfield, Buck, Campbell, Delvin, Johnson, Sheldon, Mulliken, Kessler, Basich, Fuhrman, Morris, Huff, Honeyford, Chandler, Elliot, Schoesler and Sheahan).

House Committee on Agriculture & Ecology
Senate Committee on Ecology & Parks

Background: Outdoor burning refers to both “backyard” burning and to landclearing fires. Outdoor burning does not include silvicultural burning (slashburns) or agricultural burning.

Pollutants emitted by outdoor burns are PM-10 (inhalable particulate matter less than ten microns in diameter) and carbon monoxide. Outdoor burning contributes an estimated 3 percent to statewide air emissions. In general, state law regulates where and how outdoor burning can occur and what can be burned.

Outdoor Burning Bans. Outdoor burning is permanently prohibited in areas where federal PM-10 or carbon monoxide standards are violated. Outdoor burning is temporarily prohibited in any area experiencing a period of impaired air quality. State law prohibits outdoor burning by December 31, 2000, in urban growth areas designated under the Growth Management Act and in cities greater than 10,000 population.

Permits. State law allows outdoor burning in all areas not otherwise prohibited. All outdoor burning is subject to a permit. The permit system can be administered by the state, a local air authority, a county, a fire department, or a conservation district. A permitting entity may charge a fee. The permitting entity program can issue permits over the phone or through a more traditional written permit system. Outdoor burning can be banned in permitted areas when alternatives are “reasonably economical and less harmful to the environment”. State law does not elaborate as to who decides when these criteria are met.

State law allows natural vegetative material to be burned. Department of Ecology rules allow paper to be burned only in quantities sufficient to start a fire and, specifically prohibit the burning of cardboard, untreated wood, garbage, and other materials.

Summary: Outdoor burning permit requirements are altered.

Outdoor residential burning and land clearing burning is allowed by permit in cities where outdoor burning is not prohibited and in nonurban areas of a county with an unincorporated population of greater than 50,000. Land clearing burning is allowed by permit in nonurban unincor-

porated areas of a county with an unincorporated population of less than 50,000. Outdoor burning may occur without a permit in other areas where outdoor burning is allowed.

An outdoor burning permit may be issued by rule or by verbal, written, or electronic approval.

Outdoor burning to dispose of tumbleweeds blown by wind is allowed without a permit or payment of a fee in a county with a population of less than 250,000 if such burning does not occur during an air pollution episode or any stage of impaired air quality.

Outdoor burning is prohibited when an alternative technology or method is available, the alternative technology is reasonably economical, and the alternative technology is less harmful to the environment than burning.

Incidental agricultural burning must be allowed without a permit and without payment of a fee if certain conditions are met.

A fire protection district is not required to enforce air quality requirements related to outdoor burning, unless the fire protection district enters into an agreement with the Department of Ecology, Department of Natural Resources, a local air pollution control authority, or other entity to provide such services.

Votes on Final Passage:

House	76	18	
Senate	44	0	(Senate amended)
House	76	19	(House concurred)

Effective: July 23, 1995

HB 1081

C 167 L 95

Specifying sentencing conditions for felons who commit additional felonies.

By Representatives Radcliff, Blanton, Costa, Koster, Ballasiotes, Cole, Dickerson, Basich and Mitchell; by request of Department of Corrections.

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: The sentencing of adult felons is governed by Washington’s Sentencing Reform Act (SRA). Under the SRA, some offenders are eligible to be put on community supervision.

“Community supervision” means a period of time during which a convicted offender is in the community but is subject to conditions imposed by the sentencing judge. Some conditions that the judge can impose are prohibitions against having contact with the victim or prohibitions against drug or alcohol use.

Sometimes a person who is serving a period of community supervision commits another offense. The person’s sentence for that second offense might result in a second period of community supervision, and it might result in the

HB 1086

imposition of conditions that were not imposed in the first order of community supervision. When this happens, current law does not allow the judge to give effect to the restrictive conditions in the second sentence before the second period of community supervision actually begins. Accordingly, if the judge orders the second period of community supervision to begin only after the first period is completed, then the new restrictive conditions cannot go into effect until that future date.

Summary: When a person who is already serving a period of community supervision is sentenced to a second period of community supervision, the judge may order any conditions imposed under the second sentence to go into effect immediately, even if the second period of community supervision itself does not begin until the first period is completed.

Violation of these conditions would constitute a violation of whichever community supervision order is then in effect.

Votes on Final Passage:

House	94	0
Senate	41	0

Effective: July 23, 1995

HB 1086

C 62 L 95

Revising provisions relating to personal property liens and security interests.

By Representatives Hickel and Appelwick; by request of Law Revision Commission.

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

Background: The Washington Law Revision Commission is directed by statute to review the Revised Code of Washington and recommend improvements to the Legislature. The commission recommends that several technical changes and clarifications be made to provisions relating to personal property lien foreclosures and that obsolete references to "chattel mortgages" be deleted.

Summary: A provision of the code concerning foreclosure of personal property liens is rewritten for clarification and is recodified from the chapter dealing with real property foreclosure to the chapter dealing with personal property foreclosure. Several provisions of the code are amended to refer to the recodified section.

A new section is added making the judicial foreclosure procedures for real estate mortgages applicable to the foreclosure of personal property security interests covered by Article 9 of the UCC.

A reference to "chattel mortgage" is deleted, and a section concerning chattel mortgages is repealed.

Two sections of the code whose information is incorporated into Section 1 of the bill are decodified.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 23, 1995

HB 1087

C 136 L 95

Correcting an unconstitutional provision concerning jurisdiction for violations dealing with motor vehicles.

By Representatives Hickel and Appelwick; by request of Law Revision Commission.

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

Background: The Washington Constitution sets forth the jurisdiction of the superior courts and district courts of the state. Article 4, Section 6 provides that superior courts shall have original jurisdiction in all criminal cases amounting to felony. Article 4, Section 10 provides that the Legislature shall prescribe the jurisdiction of justices of the peace (district courts), subject to the limitation that the jurisdiction conferred by the Legislature may not entrench on the jurisdiction of the Superior Court or other courts of record.

The Legislature granted the District Court criminal jurisdiction, concurrent with the Superior Court, over all misdemeanors and gross misdemeanors.

A section of the motor vehicle title provides that district and municipal courts have concurrent jurisdiction with the Superior Court for all violations of the provisions of the motor vehicle title. The motor vehicle title contains several felony crimes, including vehicular homicide and vehicular assault. This is the only provision of the code which grants felony jurisdiction to district and municipal courts.

A 1969 Washington Supreme Court decision ruled that this provision's grant of felony jurisdiction to district and municipal courts unconstitutionally infringes on the jurisdiction of the Superior Court.

The Law Revision Commission is directed to recommend the repeal of all statutes held unconstitutional by the Supreme Court of the state. The commission recommends that the provision granting district and municipal courts jurisdiction over felony offenses contained in the motor vehicle title be amended to limit the jurisdiction to misdemeanor and gross misdemeanor offenses.

Summary: The bill excepts from the jurisdiction of district and municipal courts all felony offenses contained in the motor vehicle title of the RCW.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 23, 1995

HB 1088

C 268 L 95

Clarifying the definition of "sex offense".

By Representatives Hatfield, Ballasiotes, Kessler, Poulsen, Sheldon, Schoesler, Brumsickle, Blanton, Campbell, Pennington, Costa, Sherstad and Benton.

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: Registration of sex offenders. Sex offenders must register within 24 hours of being released from confinement. The registration statutes define "sex offense" by incorporating that term's definition in the Sentencing Reform Act (SRA). The SRA defines "sex offense" as a felony violation of certain specified statutes. The definition also expressly includes at least some convictions for attempting to commit these offenses.

An issue has arisen over whether a conviction for an attempted offense must itself be a felony to qualify as a "sex offense." This issue arises in the context of a conviction for attempting to commit a Class C felony; such an attempt is itself only a gross misdemeanor. Some trial judges have concluded the term "sex offense" applies only to felony-level convictions, thereby excluding convictions for attempting to commit a Class C felony offense. Some judges have concluded otherwise, determining that the definition includes an attempt to commit a felony-level offense, even when the attempt is itself only a gross misdemeanor.

A concern exists that a person who is convicted of attempting to commit a Class C felony sex offense should be required to register as sex offender.

Duration of registration requirement. The seriousness of the sex offense determines how long the sex offender must remain registered. The registration requirement ends for class C felonies after 10 years and for class B felonies after 15 years. For class A felonies there is no automatic ending date. Any sex offender can be relieved from the registration requirement by proving to a judge that the offender's registration no longer meets the statutory purposes.

Other uses of "sex offense" in the SRA. The SRA uses the definition of "sex offense" for a number of purposes. For example, whether or not an offense is a sex offense changes how that offense is scored for purposes of crimi-

nal history. Being convicted of a sex offense can also disqualify a person from a number of sentencing options.

Juvenile offenses committed with sexual motivation. The SRA defines "sex offense" to include adult convictions for felonies that were specially found to have been sexually motivated. The definition does not, however, include juvenile adjudications for these same offenses.

Under the Juvenile Justice Act, a juvenile may receive a disposition longer than the standard range when the juvenile's offense includes a finding of sexual motivation. This provision of the act, however, erroneously refers to the adult statute on sexual motivation rather than to the parallel juvenile statute.

In each of these two instances, the failure to refer to the juvenile statute on sexually motivated offenses appears to have been inadvertent. A recent appellate court decision reached this same conclusion.

Summary: The bill creates a separate definition of "sex offense" for purposes of registration and clarifies the definition that applies for other purposes under the SRA.

Registration of sex offenders. For purposes of registration, the definition of "sex offense" is changed to include convictions for attempting to commit felony sex offenses, even if the attempt itself is not a felony. Accordingly, a person convicted of attempting to commit a class C felony sex offense must register as a sex offender.

Duration of registration requirement. For those non-felony attempts that qualify as sex offenses, the registration requirement automatically ends after 10 years. These offenders are also eligible to petition the court to be released from this requirement.

Other uses of "sex offense" in the SRA. For all other purposes under the SRA, the definition of "sex offense" is clarified to unambiguously apply only to offenses that are themselves felonies. Accordingly, a person convicted of an attempt that is not itself a felony has not committed a sex offense for the SRA's sentencing purposes.

Juvenile offenses committed with sexual motivation. The SRA's definition of "sex offense" is expanded to include juvenile felonies that were found to have been sexually motivated. The Juvenile Justice Act's erroneous reference to the adult statute on sexually motivated offenses is corrected to refer to the parallel juvenile statute.

Votes on Final Passage:

House	92	0	
Senate	46	0	(Senate amended)
House	88	0	(House concurred)

Effective: July 23, 1995

ESHB 1093

C 4 L 95 E1

Revising bidding procedures for public agencies.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Johnson, Romero and Wolfe; by request of Department of General Administration).

House Committee on Transportation
Senate Committee on Government Operations

Background: The 1994 Legislature directed the departments of Transportation (DOT) and General Administration (GA) and the Office of Financial Management (OFM), in consultation with the Legislative Transportation Committee, to review GA, Office of State Procurement's acquisition authorities and determine the impact on the operation of Washington State Ferries (WSF) as a public mass transportation system. The multi-agency review resulted in a series of recommendations on procurement methods and statutory changes that are responsive to the needs of WSF and that streamline the procurement process for all state agencies. The study results and proposed legislation were reported to the LTC in December 1994.

The major focus of legislation introduced in the 1995 legislative session was on giving GA clear authority to use, in addition to the traditional competitive bid process (Invitation for Bid or IFB) which selects bidders solely on the basis of the lowest cost, a Request for Proposal (RFP) process that takes into consideration criteria, other than cost, in evaluating and selecting contracts for technologically complex procurements (such as propulsion systems for ferry vessels).

Concern regarding expansion of the RFP process to all state agencies, led to a compromise bill that addresses only the procurement needs of WSF.

Summary: The DOT is required to procure materials, supplies, services and equipment for ferries and terminals in accordance with the state competitive bid law using an Invitation for Bid (IFB) unless the secretary of the DOT determines in writing that use of the IFB is not practicable or advantageous to the state. DOT may then pursue purchases for WSF using the RFP process.

The RFP solicitation must include a functional description of the needs and requirements of WSF for the item procured. The DOT is prohibited from using evaluation criteria not specified in the RFP. The contract is awarded to the bidder whose sealed bid is determined by the DOT to be the most advantageous to the state, taking into consideration price, and other evaluation factors set forth in the RFP.

If life cycle cost analysis is used (the total cost of an item over its estimated useful life, including costs of selection, acquisition, operation, maintenance and, where

applicable, disposal), it must be given the same relative importance as the price of an item specified in the RFP.

DOT is authorized to extend ferry concession contracts from five to 10 years and may use either an IFB or RFP process in selecting such contracts.

The law establishing the existing RFP process used to procure ferry passenger-only vessels is repealed.

Votes on Final Passage:

House 97 0

First Special Session

House 89 0

Senate 30 17

Effective: June 14, 1995

HB 1102

C 7 L 95 E2

Expanding the base of the tax exemption for food fish eggs and fry to shellfish.

By Representatives Sheldon, Johnson, Basich, Hargrove, Hatfield, Koster, Quall, Goldsmith, Kessler, Kremen and Buck.

House Committee on Finance

Background: The fish tax is imposed when enhanced food fish are landed in Washington. "Enhanced food fish" includes salmon, anadromous game fish, shellfish and other food fish caught in Washington territorial and adjacent waters.

The fish tax is based on the value of the fish at the point of landing in Washington. The tax rate depends on the species of fish or shellfish. Chinook, coho, and chum salmon and anadromous game fish are taxed at 5.62 percent. Pink and sockeye salmon are taxed at 3.37 percent. Oysters are taxed at .086 percent. Other food fish and shellfish are taxed at 2.25 percent.

The tax does not apply to food fish shipped from outside Washington. The tax also does not apply when food fish are raised in Washington if the fish are raised from eggs or fry and are under the physical control of the grower at all times.

Summary: Shellfish grown from larvae which are under the physical control of the grower at all times are exempt from the fish tax.

Votes on Final Passage:

House 95 1

First Special Session

House 94 3

Second Special Session

House 92 1

Senate 43 3

Effective: July 1, 1995

ESHB 1107

C 269 L 95

Eliminating and consolidating boards and commissions.

By House Committee Government Operations (originally sponsored by Representatives Reams, Rust, Goldsmith, Kremen, Wolfe, R. Fisher and Chopp; by request of Governor Lowry).

House Committee on Government Operations
House Committee on Appropriations
Senate Committee on Government Operations

Background: In a 1993 survey, the Office of Financial Management (OFM) found that 569 state boards and commissions operated in the 1991-93 biennium. In 1994, the Legislature passed ESHB 2676. The bill abolished or consolidated 49 boards and commissions, established a process to eliminate redundant and obsolete boards and commissions, and restricted the establishment of new boards and commissions.

Unless a new board or commission is established or required by statute, new boards and commissions may not be established without the express approval of the director of OFM. Prioritized approval criteria are detailed in statute. The director of OFM is required to submit to the Legislature by January 8 of each year a list of boards and commissions for which approval was requested and those that were approved during the preceding calendar year.

The Governor is required to review boards and commissions based on statutory criteria and, by January 8 of each odd-numbered year, submit a report and legislation to the Legislature recommending which boards and commissions should be terminated or consolidated. The Governor has submitted the 1995 report, recommending the termination of 34 boards and commissions and the consolidation of 16 boards and commissions into five merged boards.

Summary: The following 31 boards, councils, committees, and commissions are abolished: Law Revision Commission; Judicial Council; Juvenile Disposition Standards Commission; Cosmetology, Barbering, Esthetics, and Manicuring Advisory Board; Shorthand Reporter Advisory Board; Maritime Bicentennial Advisory Committee; Centennial Commission; Student Financial Aid Policy Advisory Committee; Advisory Committee on Access to Education for Students with Disabilities; Timber Advisory Committee; Advisory Committee on Minority and Women's Business Enterprises; Supply Management Advisory Board; Prescription Drug Program Advisory Committee; Telecommunications Relay Service Program Advisory Committee; Laboratory Accreditation Advisory Committee; Metals Mining Advisory Group; Economic Recovery Coordination Board; Joint Operating Agency Executive Committee; Office of Crime Victims Advocacy Committee; Health Care Access and Cost Control Council; Council on Volunteerism and Citizen Service; Commission

for Efficiency and Accountability in Government; Technical Advisory Committee on Pupil Transportation; Oversight Committee on Longshoreman's and Harbor Worker's Compensation Coverage; Board of Advisors for Solid Waste Incinerator and Landfill Operator Certification; Waste and Wastewater Operator Certification Board of Examiners; Twin Rivers Corrections Center Volunteer Advisory Group; Advisory Board for Purchase of Fishing Vessels and Licenses; Rail Development Commission; Marine Oversight Board; and Interagency Coordinating Committee for Puget Sound Ambient Monitoring Program.

The following 14 boards, councils, committees and commissions are consolidated: (1) the Emergency Management Council, the State Emergency Response Commission, the Disaster Assistance Council, the Emergency Management Communications Coordinating Committee, the Hazardous Materials Advisory Committee, the Hazardous Materials Transportation Act Grant Review Committee, the Flood Damage Reduction Committee, and the Hazard Mitigation Grant Review Committee; (2) the Fire Protection Policy Board and the State Fire Defense Board; (3) the Transportation Improvement Board and the Multimodal Transportation Programs and Projects Selection Committee; and (4) the Sea Urchin Endorsement Board of Review and the Sea Cucumber Endorsement Board of Review.

Votes on Final Passage:

House	98	0	
Senate	41	5	(Senate amended)
House			(Ruled beyond scope)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 1, 1995
June 30, 1997 (Section 301)

SHB 1110

FULL VETO

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

By House Committee on Natural Resources (originally sponsored by Representatives Buck, Fuhrman, Pennington, Silver, Johnson, Brumsickle, Stevens, Hargrove and Benton).

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: Statute defines the Department of Natural Resources to include the Board of Natural Resources and the Commissioner of Public Lands. The department manages some 2.1 million acres of state forest lands. The

department's management decisions must be in compliance with its trust responsibilities as well as with applicable state and federal laws.

One federal law with which the department must be in compliance is the Endangered Species Act (ESA). The ESA prohibits taking any species that is listed as endangered under the act. The ESA also provides an exception to this policy under certain conditions. The ESA allows the incidental taking of listed species if an entity has received from the Secretary of the Interior an incidental take permit and approval of a habitat conservation plan. In evaluating a proposed plan and a permit application, the secretary is to consider: whether the taking of a listed species will be incidental; whether the applicant will minimize and mitigate the impacts of the taking to the maximum extent practicable; whether the applicant will ensure adequate funding for the plan; whether the taking will appreciably reduce the likelihood of the survival and recovery of the listed species; and, whether any other measures that the secretary requires will be implemented. The planning horizon for these efforts is generally long-term in nature (for example, 30 years). The theory underlying incidental take permits and habitat conservation plans is to allow activities which might cause harm to an individual member of a listed species so long as an overall, long-range management strategy conserves the species as a whole.

The department has initiated a habitat conservation planning effort for approximately 1.6 million acres of state forest land. Species particularly emphasized in the planning effort are the northern spotted owl, the marbled murrelet, and species in riparian zones, including salmon. The plan is also to include conservation assessments of a number of additional species and consideration of forest health. There are a number of steps involved in the development of the habitat conservation plan, including preparation of an Environmental Impact Statement. Before implementation, the plan must receive the approval of the Board of Natural Resources and the U.S. Fish and Wildlife Service, the latter acting on behalf of the Secretary of the Interior.

Summary: The Legislature shall oversee long-range commitments for the management of the state's forest lands with respect to agreements made with the federal government pursuant to the Endangered Species Act. Prior to entering into any agreement or making any commitment intended to induce the issuance of a federal permit affecting more than 10,000 acres of public or state forest land for five or more years, the department shall report to the Natural Resource Committees of the Senate and the House of Representatives. Agreements and commitments to which this requirement applies include habitat conservation plans, incidental take permits, and similar agreements or plans related to the Endangered Species Act. The department shall provide the committees with copies of all proposed plans and agreements as well as an analysis

demonstrating that the proposal is in the best interests of the trust beneficiaries.

The department shall submit the following with each biennial budget request: an analysis of the impacts of any agreement or contract on state lands; identification of the funding requirements to implement the agreement or contract; and an accounting of expenditures for the current biennium with respect to any agreement or contract. The Legislature shall review the department's funding request; funds appropriated shall be separate budget items.

Votes on Final Passage:

House	68	27	
Senate	48	0	(Senate amended)
House	82	13	(House concurred)
House	68	26	(House reconsidered)

First Special Session

House	68	25	(House overrode Governor's veto)
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VETO MESSAGE ON HB 1110-S

May 16, 1995

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. 1110 entitled:


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

Substitute House Bill No. 1110 amends Department of Natural Resources (DNR) statutes and the Budget and Accounting Act to require DNR to report to the legislature on the implementation of any long-term land management agreements — such as a Habitat Conservation Plan — between DNR and the federal government. The bill also requires DNR to provide specific information related to these agreements along with its biennial budget. This information would include expenditures during the previous biennium, an analysis of the impact of the agreement on state lands, and funding requirements to implement the agreement in the next biennium.

The specific information requested by this bill is unclear and is subject to misinterpretation and misunderstanding between DNR and the legislature. Rather than permanently amending the Budget and Accounting Act, the legislature can request that specific information be made available as part of the next biennial budget process. Although I am vetoing Substitute House Bill No. 1110, I request the legislature to include language clarifying its intent in the final DNR 1995-97 operating budget. This will provide the legislature with the information desired while avoiding a continuing requirement of DNR.

For these reasons, I have vetoed Substitute House Bill No. 1110 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

HB 1112

C 137 L 95

Clarifying and streamlining the use of funds within the department of general administration.

By Representatives Silver, Sommers, Romero, Wolfe, Huff, Stevens, Johnson, Brumsickle and Mason; by request of Department of General Administration.

House Committee on Appropriations
Senate Committee on Government Operations

Background: The Department of General Administration's (GA) Division of Risk Management coordinates commercial insurance purchases for state agencies. Funds used to purchase insurance coverage are appropriated to agencies, then pass through GA's risk management account as non-appropriated funds before being paid to commercial insurers. However, the risk management account is statutorily designated as an "appropriated" fund.

GA's Division of Commodity Redistribution is responsible for reutilizing state and federal surplus goods. The division operates from five fund sources: general fund-state, general fund-federal, the central stores revolving account, the surplus property purchase revolving account, and the donable foods revolving account.

Summary: Two changes are made in the funding structure of the Department of General Administration.

First, a technical change designates pass-through funds associated with commercial insurance purchases in the risk management account as non-appropriated.

Second, the acquisition authority of the surplus property revolving fund is broadened to allow the acquisition of state or local surplus property in addition to federal surplus property. This will allow the three surplus property funds to be consolidated into one fund.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: July 23, 1995

HB 1117

C 314 L 95

Providing a deterrence for crimes committed at county or local penal institutions.

By Representatives Lambert, Costa, Blanton, Silver, Ballasiotes, Backlund, Robertson, Boldt, Buck, Thompson, Hargrove and Huff.

House Committee on Law & Justice
Senate Committee on Human Services & Corrections

Background: A number of felony offenses apply only to persons who are incarcerated in state penal institutions.

These crimes do not apply outside of a state prison, although similar crimes may.

For instance, generally, a person is guilty of the crime of "riot" if, acting with three or more other persons, he or she knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property. If the actor is armed with a deadly weapon, the crime of riot is a class C felony. In all other cases under this law, the crime of riot is a gross misdemeanor. However, inmates in a state prison are guilty of the crime of "prison riot" if two or more of them use force or the threat of force to disturb the good order of the institution contrary to the commands of prison personnel. The crime of prison riot is a class B felony.

Other crimes that apply exclusively to inmates in state penal institutions include holding a hostage, preventing an officer from performing duties, and possessing any weapon. All of these crimes are class B felonies. Simple possession of a controlled substance by an inmate in a state prison is a class C felony.

Summary: Felony crimes that apply to inmates in state prisons are extended to apply to inmates in local jails. These crimes include prison riot, holding a hostage, preventing an officer from performing duties, possessing any weapon, and possessing any controlled substance.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	46	0	(Senate amended)
House	94	3	(House concurred)

Effective: July 23, 1995

SHB 1123

PARTIAL VETO

C 350 L 95

Creating the office of Washington state trade representative.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Sheldon, Van Luven, Horn, Campbell, Foreman, Mason, Hatfield, Ballasiotes, Kremen, Conway, K. Schmidt, D. Schmidt, Grant, Sheahan, Chopp, Schoesler, Morris, Koster, Thibaudeau, Talcott, Valle, Wolfe, L. Thomas, Casada, Boldt, Sherstad, Huff and Mitchell).

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

Background: Recent passage of the North American Free Trade Agreement (NAFTA) and the Uruguay round of the General Agreement on Tariffs and Trade (GATT) highlight

the increased importance of international trade to the United States and the state of Washington.

Washington State has several programs to promote international trade and export by small- and medium-sized businesses. These programs include research and market development activities, export counseling, and export technical assistance.

In 1993, the Legislature established a 15-member Council on International Trade. The council was established to coordinate the various state programs that promote international trade, among other duties. The council expires on June 30, 1995.

In 1994, as part of the Governor's International Trade Initiative, the position of special trade representative was created. The position was jointly funded through the Department of Agriculture and the Department of Community, Trade, and Economic Development. The special trade representative acts as the state's liaison with foreign governments on trade matters and issues, works with state agencies involved in international trade, and works with the Council on International Trade. The position of special trade representative was not created by statute.

Summary: The Office of the Washington State Trade Representative is created in the Office of the Governor. The position of Governor's special trade representative is created as the executive and administrative head of the office. The Governor's special trade representative is subject to confirmation by the Senate.

The Governor's special trade representative may: (1) establish a trade advisory council; (2) advise the Governor and Legislature on matters that affect the state's export assistance efforts; (3) evaluate proposals concerning enhancement, coordination, and program structure of the state's activities in international trade; (4) consult with state agencies and agricultural commissions on the promotion of Washington goods and services overseas; and (5) request or accept gifts and grants to defray the cost of hosting foreign dignitaries and for other office expenses.

State agencies may temporarily assign staff to assist in the duties and responsibilities of the office.

Votes on Final Passage:

House	94	0	
Senate	43	5	(Senate amended)
House	90	0	(House concurred)

Effective: July 23, 1995

Partial Veto Summary: The veto removes specific reference to the Governor's appointment of the special trade representative and administrative duties of the special trade representative.

VETO MESSAGE ON HB 1123-S

May 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Substitute House Bill No. 1123 entitled:

"AN ACT Relating to international trade;"

I strongly support the efforts reflected in Substitute House Bill No. 1123 to enhance the position of Washington State in international trade. Our economy depends more on international trade than does any other state in the Union. Our economic future will be made in international markets, the source of many of the high wage jobs we now enjoy and will see more of in our future.

Last year, I established the position of state trade representative as a way of increasing the visibility of international trade in the state and the visibility of the state in international markets. I have been impressed with efforts so far and continue to believe that the position of state trade representative is a valuable and important component to increasing the visibility and focus of the state's trade efforts. As a result, I am pleased to establish the Office of State Trade Representative in statute.

However, section 3 of Substitute House Bill No. 1123 raises concerns. The section can be interpreted to establish a new agency for international trade. The state trade representative should not operate as a separate agency but should serve as an arm of the Governor's office, working collaboratively with the Department of Community, Trade and Economic Development and the Department of Agriculture to develop and implement a broad and unified trade strategy in concert with the trade community of our state.

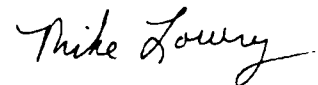
The state trade representative must be the lead advocate on international trade issues that affect the enterprises and citizens of the state. Advocating the state's interests in federal, foreign, bilateral and multilateral forums, the state trade representative must work to focus state efforts on international trade, investment and tourism. The state trade representative must work closely with the wide community of interests in the state concerned with trade ensuring that their concerns are heard and that their broad expertise is utilized to benefit the state.

I am committed to ensuring that the state trade representative carries out this vision. In the near future, after consultation with legislators, affected state agencies, and the trade community, I will sign an executive order articulating the role of the state trade representative in greater detail.

For these reasons, I have vetoed section 3 of Substitute House Bill No. 1123.

With the exception of section 3, Substitute House Bill No. 1123 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 1125

C 8 L 95

Exempting federally licensed dams from state regulation.

By House Committee on Energy & Utilities (originally sponsored by Representatives Kessler, Casada, Chandler,

Kremen, Patterson, Mastin, Morris, Quall, Foreman, L. Thomas, Brumsickle, Buck, Huff and Schoesler).

House Committee on Energy & Utilities
Senate Committee on Energy, Telecommunications & 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 for a review of the project's safety prior to construction.

The Federal Energy Regulatory Commission (FERC) has federal responsibility for most hydropower facilities. Under the Federal Power Act, FERC has exclusive jurisdiction over those projects it regulates. This authority preempts state law that 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. When issuing a license, FERC must also include 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, operating, 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 to be conducted jointly, but FERC is the focal point for response by the project operator.

Summary: Ecology has no authority to regulate, supervise, or assure the safety of any project that 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.

Votes on Final Passage:

House	91	6
Senate	45	0

Effective: July 23, 1995

2EHB 1130

C 315 L 95

Restricting the ringing of bells or sounding of whistles on locomotives.

By Representatives Crouse, Dellwo, Padden, Brown, Silver, Johnson, McMorris, Elliot, Stevens, Koster and Schoesler.

House Committee on Transportation
Senate Committee on Transportation

Background: Under Washington law, it is a misdemeanor for an engineer driving a locomotive to fail to ring the bell or sound the whistle when at least 80 rods (1/4 mile) from a railroad crossing.

The federal High Speed Rail Act of 1994 ("Swift Rail Act") directs the federal Department of Transportation (USDOT) to prescribe regulations requiring all trains to sound their horns while approaching and entering public grade crossings. This law effectively preempts local and state train whistle bans. However, the federal act allows the secretary of the USDOT to grant waivers in those instances where, in the judgment of the secretary, supplemental safety measures will fully compensate for the absence of the warning provided by train whistles.

Summary: Cities and counties are authorized to enact ordinances limiting train whistles at crossings equipped with "supplemental safety measures," as defined in the specified federal law existing on November 2, 1994.

Supplemental safety measures that prevent careless movement over the crossing (e.g., where adequate median barriers prevent movement around crossing gates extending the full width of the lanes in a particular direction of travel), are deemed to conform to federal standards, unless specifically rejected by an emergency order issued by the USDOT.

Prior to enacting an ordinance, affected railroad companies and the state Utilities and Transportation Commission must be notified in writing of the proposed ordinance, so that they will have opportunity for comment.

Trains operating at low speeds (10 mph or less) or within rail yards are not required by state law to sound the locomotive whistle.

Nothing in these provisions is to be construed as limiting the state's rights.

Votes on Final Passage:

House	38	60	(Failed)
House	95	0	(Reconsidered)
Senate	42	3	(Senate amended)
House	95	2	(House concurred)

Effective: July 23, 1995

EHB 1131
PARTIAL VETO
C 233 L 95

Changing provisions relating to economic assumptions for actuarial studies and retirement contribution rates.

By Representatives Silver and G. Fisher; by request of Office of the Forecast Council.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Office of the Economic and Revenue Forecast Council is an independent six member council consisting of four legislators, the director of the Office of Financial Management, and the director of the Department of Revenue.

In 1989, a pension funding reform statute was adopted requiring the Economic and Revenue Forecast Council to adopt, every six years, the economic assumptions used by the State Actuary for conducting valuation studies of the Washington State Retirement Systems. The forecast council would recommend changes in the employer and state contribution rates to be adopted by the Legislature.

Contribution rates are set as a level percentage of pay as required to fully fund the Public Employees' (PERS), Teachers' (TRS), Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 2 retirement systems, and to fully amortize the total cost and unfunded liability of the PERS, TRS, LEOFF Plan 1 retirement systems, and Washington State Patrol (WSP) retirement system by June 30, 2024.

In 1993, the biennial budget changed the requirement for adopting the employer and state contribution rates from every six years to every two years.

The economic assumptions used by the State Actuary for valuation studies are also used by the Department of Retirement Systems to calculate actuarial reductions, such as for retirees who select a survivor option or withdraw their contributions.

Summary: The statutory requirement for reviewing economic assumptions is changed from every six years to every two years. Therefore, the State Actuary will submit information regarding the state retirement systems to the office of the Economic Forecast Council every two years.

The council is directed to review the information and, by affirmative vote of five council members, adopt the following long-term economic assumptions every two years: a) growth in system membership; b) growth in salaries, exclusive of merit or longevity increases; c) growth in inflation; and d) investment rate of return.

The council will work with the Department of Retirement Systems, the State Actuary, and the State Investment Board, and will consider long-term historical averages in developing the assumptions.

Votes on Final Passage:

House	98	0
Senate	41	0

Effective: May 5, 1995

Partial Veto Summary The governor vetoed section 2 of House Bill 1131 because detailed and specific language preferable to that of section 2 exists in section 309 of Engrossed Substitute House Bill No. 1206, relating to retirement systems restructuring. These sections cannot properly be merged.

The vetoed section directs the State Actuary to submit information about the retirement systems to the Economic Forecast Council every two years, and directs the council to adopt retirement contribution rates. The section also directs the council to notify the Office of Financial Management and the Department of Retirement Systems of the newly adopted contribution rates, and directs the department of Retirement Systems to collect the rates.

VETO MESSAGE ON HB 1131

May 5, 1995

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, Engrossed House Bill No. 1131 entitled:

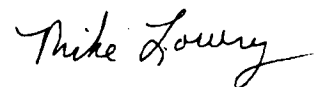
"AN ACT Relating to economic assumptions for state retirement systems;"

Engrossed House Bill No. 1131 requires the Economic and Revenue Forecast Council to adopt long term economic assumptions for pension rate calculation purposes every two years instead of the current six year cycle. I strongly favor the direction this bill takes in providing for additional pension contribution rate stability. However, detailed and specific language preferable to that of section 2 exists in section 309 of Engrossed Substitute House Bill No. 1206, relating to retirement systems restructuring. These sections cannot properly be merged.

For this reason, I have vetoed section 2 of Engrossed House Bill No. 1131.

With the exception of section 2, Engrossed House Bill No. 1131 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 1136

C 234 L 95

Requiring twenty-five percent of inmate welfare accounts to be used for victims' compensation.

By Representatives Ballasiotes, Kessler, Campbell, Costa, Padden, Delvin, Hargrove, Basich, Tokuda, Lisk, Dyer, Mastin, Schoesler, Blanton, Sheldon, Lambert, L. Thomas, Backlund, Van Luven, Benton, Buck, Crouse, Chappell, Wolfe, Huff, Mitchell, Hickel, Thompson, Foreman,

Sherstad, Chandler, Clements, Patterson, Mulliken, Honeyford, Cooke, Johnson, D. Schmidt, Pennington, Hymes, Kremen, Carrell, Mielke and Sheahan.

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: The inmate welfare fund consists of inmate-generated funds which are spent for activities that contribute to the betterment of the offender population. The Department of Corrections' headquarters maintains a portion of these inmate welfare funds in a main account, and each institution also has a separate subaccount for a portion of the funds it collects. Revenue for the inmate welfare account is derived from profits gained from the inmate store, telephone commissions on collect calls, profits from vending machines, donations, and other miscellaneous proceeds such recycling of aluminum cans, or contraband money.

Some of the activities paid for from the inmate welfare fund include:

1. recreation equipment and supplies;
2. hobby crafts;
3. holiday events (including Christmas gifts to inmates), miscellaneous refreshments and tournament prizes. The total expenditures cannot exceed a maximum of \$50 per each inmate per year;
4. humanities, arts, and performance honorariums;
5. extended family visit program, including cost of state employees salaries directly related to management of the program and other costs related to the program;
6. visiting areas;
7. public performance licenses and league fees;
8. inmate-view television systems (i.e., monthly cable fees);
9. offender newsletter;
10. library supplies;
11. religious supplies;
12. inmate store salaries and benefits;
13. donations to non-profit organizations that provide a direct and identifiable benefit to inmates if approved by the department.

During the 1995-1997 biennium the inmate welfare fund is expected to have a beginning balance of \$1,148,739 and a total gross revenue of \$3,799,409. The total expenditures are expected to be \$4,571,702 during this period of time while the end fund balance is expected to be \$376,446.

The public safety and education account does not receive any funds from the inmate welfare account for crime victims' compensation.

Summary: The Department of Corrections is required to deposit 25 percent of the total funds collected for inmate welfare accounts into the public safety and education account for the crime victims' compensation program. Funds transferred to the Department of Labor and Industries for the crime victims' compensation program

from the inmate betterment fund must take priority over any expenditure of betterment funds. The transfer of funds is also required to be reflected on the monthly financial statements of each institution's betterment fund subaccount. The funds transferred to the crime victims' compensation program are intended to be in addition to the funds appropriated in the budget for this account and are not intended to reduce the level of funding provided by the appropriation.

Technical housekeeping changes are made.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	90	0	(House concurred)

Effective: July 23, 1995

SHB 1140

C 316 L 95

Revising procedures for using criminal history in sentencing of offenders.

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Horn, Blanton, Costa and Honeyford).

House Committee on Corrections
Senate Committee on Law & Justice

Background: The sentencing of adult felons is governed by the Sentencing Reform Act (SRA). The SRA sets out standard ranges of punishment to guide judicial sentencing decisions. The standard ranges are determined from two factors, one of which is the felon's criminal history. A defendant's criminal history is "scored" and assigned a number of points. The more serious the criminal history, the higher the defendant's point total, and in turn, the longer the defendant's standard range of confinement.

In general, each felony in the defendant's criminal history is separately scored. This general rule has many exceptions, some of which are noted below.

"Washout" provisions. Some offenses in a defendant's criminal history are not scored if enough time has elapsed since the time of the conviction. When this happens, the prior offense is said to "wash out" from the defendant's criminal history. The SRA's washout provisions for prior adult convictions are as follows:

- Previous convictions of class A felonies and sex offenses are always included.
- A class B felony washes out if the defendant subsequently spends a 10-year period in the community without being convicted of any felonies.
- A class C felony washes out if the defendant subsequently spends a five-year period in the community without being convicted of any felonies.

- A serious traffic offense washes out if the defendant subsequently spends a five-year period in the community without being convicted of any serious traffic or felony traffic offenses.

A concern exists that an offense should wash out only if for the relevant period of time the defendant does not commit any crimes at all, not just felonies. There is a related concern that the focus should be on the date when the subsequent offense is committed, not on the date when the conviction is entered for that offense.

Federal convictions. A defendant's criminal history under the SRA does not include any out-of-state felony unless it has a clearly comparable Washington counterpart.

Many federal felonies do not have comparable Washington counterparts. Accordingly, these non-comparable felonies are not included in scoring the defendant's criminal history.

Prior concurrently-served sentences. Previous felonies are not always separately scored when they were concurrently served. Prior concurrently-served sentences may sometimes be counted as a single offense.

One set of rules applies to prior offenses that were committed before July 1, 1986. For these prior offenses that were concurrently served, they are counted as only one offense. The judge counts only the offense that results in the higher offender score.

Another set of rules applies if the defendant's previous offenses were committed on or after July 1, 1986. For these prior offenses that were concurrently served, they are counted as a single offense if the judge at the earlier sentencing specifically found that the offenses arose out of the same criminal conduct. The one offense that is scored is the one which yields the higher offender score. Sometimes, however, prior offenses were concurrently served even though the previous sentencing judge did not specifically find that the offenses arose out of the same criminal conduct. In these circumstances, the current sentencing judge has discretion whether to include each of the prior convictions separately or to instead include two or more of the convictions as a single offense. A concern exists that this discretion should be more limited.

The SRA does not specifically define the term "concurrently served" in the context of scoring criminal history. This term can include probation or parole revocations resulting from pre-SRA convictions, even though sometimes this can result in an offender who successfully completes probation or parole being given a higher offender score than an offender who fails probation or parole.

Exceptional sentences. A sentencing judge can impose a sentence above the applicable standard range of confinement. To do so, the judge must conclude that "substantial and compelling reasons" justify a longer sentence.

The SRA provides a list of aggravating circumstances that can justify a sentence longer than the standard range. The list is only illustrative; judges may find that other cir-

cumstances also qualify as substantial and compelling reasons to impose a longer sentence.

Washington's courts have held that prior unscored misdemeanor offenses can justify a sentence longer than the standard range. The SRA does not specifically include this reason in its list of illustrative aggravating circumstances.

Summary: "Washout" provisions. The conditions under which adult offenses can wash out of criminal history are changed. Whereas previously an offense could wash out depending on how long the defendant was in the community without being convicted of a felony, an offense now washes out depending on how long the defendant has been in the community without committing any new crime. The new crime will prevent a prior offense from washing out only if the offender is convicted of the new crime.

Federal convictions. A federal felony that does not have a clearly comparable Washington counterpart is included in a defendant's criminal history as a class C felony.

Prior concurrently-served sentences. Concurrently served sentences are defined to mean sentences where a judge specifically identifies each sentence and orders them to run concurrently. The definition excludes parole or probation revocations.

The bill also changes the rules for scoring prior concurrently-served offenses that were committed on or after July 1, 1986. When scoring these prior concurrently-served convictions, the judge is to determine if the offenses arose out of the same criminal conduct. When the prior offenses arose out of the same criminal conduct, the judge is to score only the one offense that results in the higher offender score. When prior offenses did not arise out of the same criminal conduct, the judge is to score each offense separately. The judge may presume that offenses did not arise from the same criminal conduct if they were sentenced in separate counties, on separate dates, or under separate charging documents.

Exceptional sentences. The SRA's list of illustrative aggravating circumstances is expanded to include unscored misdemeanor convictions and unscored foreign convictions.

Votes on Final Passage:

House	93	0	
Senate	32	15	(Senate amended)
House			(Ruled beyond scope)
Senate	47	0	(Senate receded)

Effective: July 23, 1995

Amending the veterinary practice act to include implanting of electronic identification devices.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Backlund, Morris,

Johnson, Campbell, Cooke, Skinner, Chandler, Casada, Schoesler, Boldt, Mulliken, Huff, Mitchell, Thompson, Foreman, Robertson, Buck, Clements, Smith, Delvin, Carrell, Mielke and Sheahan).

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & Agricultural Trade & Development

Background: The practice of veterinary medicine is licensed by the Department of Health. No person may practice veterinary medicine without being licensed as a veterinarian.

The practice of veterinary medicine includes the diagnosis and treatment of diseases and injuries of animals, including the prescription and administration of drugs and the performance of operations. However, implanting electronic devices for the purposes of identification is not regulated nor included within the scope of practice of veterinary medicine.

Summary: The implanting of an electronic device for the purpose of establishing the positive identification of animals is included within the scope of practice of veterinary medicine. Only licensed veterinarians may implant these devices unless otherwise provided by law. Humane Societies, animal control organizations, and public fish and wild life agencies are also authorized to implant the devices under certain conditions.

Votes on Final Passage:

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

Effective: July 23, 1995

SHB 1152

C 351 L 95

Changing fees regarding concealed pistol licenses.

By House Committee on Law & Justice (originally sponsored by Representatives Pennington, Buck, Smith, Sherstad, Beeksma, Hargrove, Campbell, Chappell, Basich, Sheldon, Backlund, L. Thomas, Thompson, Foreman, Benton, McMorris, Robertson, Goldsmith, McMahan, Chandler, Clements, Mulliken, Johnson, D. Schmidt, B. Thomas, Delvin, Koster, Hymes, Skinner, Mielke and Padden).

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

Background: With limited exceptions, a person is required to obtain a license before carrying a concealed pistol. An application for a concealed pistol license

requires a fingerprint and criminal background check. A license must be renewed every four years.

Prior to 1994, the fee for an original license was \$23. The distribution of that fee was as follows: \$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 issuing authority's \$12 share had 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 \$23, with the additional \$3 earmarked for the firearms range account.

The pre-1994 fee for a renewal license was \$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.

Before 1994, a late fee of \$10 was 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.

In 1994, all of the concealed pistol licensing fees were increased. An original license fee was 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 was increased from \$15 to \$50, with \$20 going to the state general fund, \$20 to the issuing authority and \$10 to the firearms range account. The late penalty was increased to \$20, with \$10 going to the state wildlife fund and \$10 to the issuing authority.

On October 1, 1994, the federal government began charging local issuing authorities a fee of \$24 for each fingerprint check done in connection with a concealed pistol license application.

Summary: Concealed pistol licenses are issued for five years, and fees for licenses are changed as follows:

1. An original license costs \$36, with the money distributed as follows: \$15 to the state general fund; \$4 to the local fingerprinting agency; \$14 to the local issuing authority; and \$3 to the firearms range account.
2. A renewal license costs \$32, with the money distributed as follows: \$15 to the state general fund; \$14 to the issuing authority; and \$3 to the firearms range account.
3. The fee for a late renewal is \$10, with the money distributed as follows: \$3 to the state wildlife fund; and \$7 to the issuing authority.
4. A \$10 fee, retained by the issuing authority, is imposed for replacing a lost license.
5. Local issuing authorities are allowed to pass on to applicants the FBI fee for fingerprint checks.

Various aspects of the process of applying for a concealed pistol license are changed. Among these changes are the elimination of judges as issuing entities for licenses,

E2SHB 1156

the explicit inclusion of being under Department of Corrections supervision as disqualifying a person from getting a license, and a clarification of the difference between a license application form and the license itself.

Votes on Final Passage:

House	75	22	
Senate	42	6	(Senate amended)
House	88	8	(House concurred)

Effective: July 23, 1995

E2SHB 1156

C 235 L 95

Requiring the DCTED to provide support to individuals and organizations for the establishment of nonprofit education foundations.

By House Committee on Appropriations (originally sponsored by Representatives Dickerson, Brumsickle, Radcliff, Chopp, Mason, Cody, Hatfield, Poulsen, Veloria, Morris, Cole, Skinner, Tokuda, Costa, Elliot, Wolfe and Ogden).

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

Background: Educational foundations are private, nonprofit corporations that are created to provide financial and other support to school districts. Foundations often access private, federal, and local resources that may not otherwise be available and are able to serve students in innovative ways.

There are approximately 20 public school foundations in the state. Typical foundation projects include supporting or administering drop-out prevention programs, home-school partnership programs, technology support, and innovative classroom grants.

Summary: The Department of Community, Trade, and Economic Development is directed to hire a contractor or contractors to assist individuals and organizations in establishing and developing nonprofit educational foundations. The department is to solicit proposals from identified organizations and others who have the necessary expertise and experience.

The act expires on December 31, 1997.

Votes on Final Passage:

House	90	8	
Senate	26	22	(Senate amended)
House	91	6	(House concurred)

Effective: The act is null and void since no appropriation was made in the budget.

HB 1157

C 63 L 95

Modifying sales and use tax exemptions regarding motor vehicles and trailers used for transporting persons or property for hire.

By Representatives Van Luven and Sheldon; by request of Department of Revenue.

House Committee on Trade & Economic Development
House Committee on Finance
Senate Committee on Ways & Means

Background: Under current law, interstate or foreign commerce carriers qualify for a retail sales and use tax exemption on motor vehicles or trailers purchased or leased in Washington. In order to qualify for the exemption the carrier must document, to the Department of Revenue, that the first use of the equipment is for an interstate or foreign haul and that the equipment will be used 25 percent of the time to transport people or property.

The state requires interstate and foreign commerce carriers to obtain both an Interstate Commerce Commission permit and a one-transit permit from the Department of Licensing. The retail sales and use tax is imposed on the purchase if the carrier fails to acquire a one-transit permit prior to moving the vehicle out-of-state over state roads.

Summary: The Department of Revenue's requirement that interstate and foreign commerce carriers obtain a one-transit permit or have the first use be an interstate or foreign haul in order to receive the retail sales and use tax exemption on motor vehicles or trailers purchased or leased in Washington is removed.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: July 1, 1995

2SHB 1162

C 207 L 95

Changing collection of hazardous waste fees.

By House Committee on Appropriations (originally sponsored by Representatives Schoesler and Mastin; by request of Department of Ecology and Department of Revenue).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Ecology & Parks

Background: Legislation enacted in 1990 created an annual fee of \$35 assessed on known and potential generators of hazardous wastes. Funds from the fee are used by the Department of Ecology for technical assistance to waste generators and for grants to local governments.

“Known generators” are those who generate 220 pounds or more of dangerous or hazardous waste per month. “Potential generators” are those whose primary business activities are identified by the Department of Ecology as likely to generate any quantity of hazardous waste. A potential generator is exempt from the fee if the value of its products, its gross proceeds of sales, or its gross income is less than \$12,000 per year.

Legislation enacted in 1994 suspended the \$35 fee assessed on potential generators for one year due to taxpayer confusion and controversy about who is subject to the fee. The Department of Ecology convened a task force during the 1994 interim for the purpose of simplifying the administration of the fee. The task force recommended two options for addressing potential generators. The task force’s preferred recommendation was to assess the fee only to known generators and to make up the resultant shortfall by charging fees on each facility of a known generator that generates the minimum level of waste and seeking additional funding from a portion of a one percent tax on hazardous substances. The second option recommended modifying the category of potential generators to include those businesses that are the most likely to generate waste.

The Department of Ecology estimates that the \$35 fee on potential generators would generate a total of one million dollars during the 1995-97 biennium.

The Department of Revenue collects the annual fee which is due on July 1 of each year. The Department of Revenue enforces late payment of fees. The Department is authorized to assess a five percent penalty (\$1.75) if the fee is not paid within 30 days, 10 percent if not paid within 60 days, and 20 percent if not paid within 90 days.

Hazardous waste generators and hazardous substance users that are required to prepare voluntary reduction plans also must pay annual fees to support the Department of Ecology’s costs associated with the reduction plans, including plan review and technical assistance.

Summary: The categories of “known” and “potential” generator are replaced with a single category of “hazardous waste” generator. The \$35 annual fee is assessed on anyone generating hazardous waste, regardless of quantity. A generator is exempt from the fee if the value of its products, gross proceeds from its sales, or its gross income is less than \$12,000 per year.

General administrative provisions for excise taxes no longer apply to the annual fees imposed on waste generators or to the annual fees imposed on hazardous waste generators and hazardous substance users required to prepare voluntary reduction plans. Among other changes, the Department of Ecology shall collect these fees instead of the Department of Revenue. A 1 percent per month penalty is imposed on late payments of both the annual fee on waste generators and the annual fee imposed on waste generators and hazardous substance users required to prepare the voluntary reduction plans.

The Department of Ecology must contract with private businesses, where practicable, to provide compliance education.

Votes on Final Passage:

House	83	15	
Senate	46	0	(Senate amended)
House	92	0	(House concurred)

Effective: May 3, 1995

HB 1163

C 138 L 95

Providing a tax exemption for property used by nonprofit organizations for camping and recreational purposes.

By Representatives Kremen, Goldsmith, Kessler, McMorris, Campbell, Basich, Thompson, Foreman, McMahan, Buck, Cooke, Mielke and Sheahan.

House Committee on Natural Resources
House Committee on Finance
Senate Committee on Ways & Means

Background: Public property is not subject to property taxes. In lieu of a property tax, a leasehold excise tax is imposed on the lease of publicly-owned property to an entity that would have to pay property taxes on the leased property if the property were privately owned. The leasehold excise tax is not imposed on the lease of public property to an entity that would not have to pay property taxes on the leased property if it were privately owned.

Property owned by nonprofit, nonsectarian organizations used for character-building, benevolent, protective or rehabilitative social services directed at persons of all ages is exempt from property tax. When these nonprofit organizations lease public property they are exempt from the leasehold excise tax as long as the property is used for character-building, benevolent, protective or rehabilitative social services. If the property is used for a different purpose, the leasehold excise tax applies.

Summary: A leasehold excise tax exemption is provided to nonprofit, nonsectarian organizations providing character-building, benevolent, protective or rehabilitative social services directed at persons of all ages. The exemption applies for property used to provide organized and supervised recreational activities for disabled persons in a camp facility as well as for public recreational purposes.

Votes on Final Passage:

House	96	0
Senate	43	0

Effective: April 27, 1995

ESHB 1165

C 318 L 95

Making technical corrections to excise and property tax statutes.

By House Committee on Finance (originally sponsored by Representatives Sherstad, Dickerson, Van Luven, L. Thomas and Mason; by request of Department of Revenue).

House Committee on Finance
Senate Committee on Ways & Means

Background: In 1994, the Legislature authorized the formation of a new type of business in Washington, the limited liability company. The limited liability company is a noncorporate entity that allows the owners to participate actively in management while providing them with limited liability.

The business and occupation tax is Washington's general business tax. The tax applies to persons and companies engaging in business activities. The various types of business organizations to which the tax applies are defined by law and include, in part, individuals, joint ventures, copartnership, and corporations.

Sellers of items subject to retail sales tax are required by statute to collect the retail sales tax from the buyers and remit the tax to the state. The tax collected from the buyer is held in trust by the seller until paid over to the state. When a corporation stops doing business, the person with responsibility for the sales tax funds may be held personally responsible for any unpaid sales tax.

Purchasers of motor fuel may receive a refund of motor fuel taxes if the motor fuel is exported from Washington. The person claiming the refund must sign the export certificate. In the case of a corporation requesting a refund, the export certificate must be signed by the proper corporate officer.

An annual excise tax is imposed for the privilege of using an aircraft in Washington. For purposes of this tax, a person is defined to include a firm, partnership, or corporation.

Personal property owned by businesses is subject to property tax. Each year business entities are required to report the amount of personal property they own to the county assessor.

A provision of the Youth Violence Act requires the Department of Revenue to provide the Department of Licensing a list of licensed gun dealers with gross receipts of less than the tax reporting threshold (\$12,000 on an annual basis) for the business and occupation tax. Different legislation repealed the statute containing the \$12,000 tax reporting threshold and replaced it with a new section containing a small business tax credit.

The local sales and use tax is collected by the state together with the state sales tax. One provision of current law instructs the Department of Revenue to deposit the

local sales and use tax into the local sales and use tax account. Another provision of current law directs the Department of Revenue to turn over all receipts to the state treasurer. The statutes appear to be in conflict. By administrative practice, the department first distributes the local sales and use tax to the local sales and use tax account and then transmits the remainder to the state treasurer.

County governments may impose a property tax for acquisition of conservation futures. The tax is limited to six and one-quarter cents per thousand dollars of assessed value. A county, city, emergency medical service district, public hospital district or fire protection district may impose a property tax to provide emergency medical services. The tax is limited to fifty cents per thousand dollars of assessed value and must be voter approved. A county, city, or town may impose a property tax to finance affordable housing for very low-income households. The tax is limited to fifty cents per thousand dollars of assessed value and must be voter approved. These taxes are authorized in addition to the regular taxes authorized for these districts. Also, these taxes are not subject to the \$5.90 aggregate tax rate limit for local regular property taxes.

Summary: Limited liability companies are added to the list of organizations defined as persons or companies in the business and occupation tax law.

Managers of limited liability companies may be held personally responsible for any unpaid sales tax when the limited liability company stops doing business.

The proper manager or member of a limited liability company must sign the export certificate when requesting a refund of motor fuel taxes.

Limited liability companies are added to the list of persons subject to the aircraft excise tax.

Limited liability companies are added to the list of businesses required to report the amount of personal property they own to the county assessor.

The reference in the Youth Violence Act to the now repealed business and occupation tax reporting threshold is deleted.

The Department of Revenue must now provide a list of all registered gun dealers to the Department of Licensing, rather than only those under the tax reporting threshold.

It is clarified that property taxes for conservation futures, affordable housing, and emergency medical services are in addition to the individual local district property tax rate limits and are not subject to the \$5.90 aggregate rate limit for local regular property taxes.

Votes on Final Passage:

House	97	0	
Senate	44	1	(Senate amended)
House	91	0	(House concurred)

Effective: May 11, 1995

EHB 1173

C 270 L 95

Modifying adoption support provisions.

By Representatives Cooke and Brown; by request of Department of Social and Health Services.

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: The adoption support program provides for the adoption of hard-to-place children living in, or likely to be placed in, foster care or institutions. The program provides adoptive parents with either continuing payments or lump sum payments of adoption support. The secretary of the Department of Social and Health Services is required to annually review the need to continue adoption support payments to parents and adjust the payment to reflect changes in the medical condition, prognosis, and other changes in the needs of the adoptive child.

Adoptive parents receiving adoption support payments must submit to the department a copy of their federal income tax return within two weeks of filing it.

Summary: The secretary of the Department of Social and Health Services will, at least once every 5 years, review the need to continue adoption support payments or lump sum payments to adoptive parents through the adoption support program. Adoptive parents receiving adoption support payments will submit copies of their federal income tax return if requested by the department.

The department will study the cost, program impact, and appropriateness of extending exceptional cost foster care rates to the adoption support program for special needs children. The department will submit the study to the Legislature no later than September 1, 1995. Notification requirements when a parent's legal rights will be terminated are increased under certain circumstances to 30 days prior to court action. The conditions under which an adoption can be overturned are narrowed. Adoptions will not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the adoptee.

Votes on Final Passage:

House	98	0	
Senate	44	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	45	0
House	94	0

Effective: July 23, 1995

HB 1176

C 168 L 95

Authorizing Benton county to have one additional District Court judge.

By Representatives Delvin, Hickel, Sheahan, Appelwick, Dellwo, Hankins, Mastin, Honeyford and Padden.

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

Background: Before a county may increase the number of District Court judges in the county, the Legislature must approve the increase. The Supreme Court makes a recommendation to the Legislature and bases its recommendation on a weighted caseload analysis. Additional judgeships are effective only if the county legislative authority approves the additional position and agrees to pay for the position with county funds without reimbursement from the state.

The Benton County commissioners have approved the addition of one, full-time Benton County District Court Judge, based on a weighted caseload analysis.

Douglas County has two authorized positions. Apparently the 1994 legislation that authorized the second position was enacted by mistake.

Summary: The number of District Court judges authorized in Benton County is increased from two to three. The number of District Court judges in Douglas County is reduced from two to one.

Votes on Final Passage:

House	94	0	
Senate	44	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 1, 1995

SHB 1178

FULL VETO

Exempting persons under age twenty-one employed on the family farm from industrial insurance coverage.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Lisk, Mulliken, Chandler, L. Thomas, Thompson, Boldt, Mastin, Goldsmith, Stevens, Schoesler, Honeyford, Johnson, Koster, Mielke and Sheahan).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: The state industrial insurance law requires all covered employers to be self-insured or to purchase industrial insurance from the Department of Labor and Industries. This insurance provides benefits to workers who are injured in the course of employment or who develop an occupational disease. Employers of employees

who are excluded from this mandatory requirement may elect coverage for their workers by filing notice with the department. The excluded employments include the employment of a child under age 18 who is employed by his or her parents in agricultural activities on the family farm.

Summary: The exclusion from industrial insurance coverage of children under age 18 who are employed by their parents on the family farm is deleted. Instead, parents of a person under age 21 may elect to exclude their employment of that person from industrial insurance coverage if the person being excluded is employed by the parents in agricultural activities on their family farm and either resides with the parents or resides on their family farm. To elect exclusion from coverage, the parents must file a written notice with the Department of Labor and Industries. The parents may subsequently obtain coverage for the excluded person by filing a notice of election of coverage.

Votes on Final Passage:

House 95 0
Senate 43 0

VETO MESSAGE ON HB 1178-S

May 16, 1995

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. 1178 entitled:

"AN ACT Relating to exemptions from industrial insurance coverage for persons under age twenty-one employed on the family farm;"

The initial intent of this legislation was to assist those farm families who have college-age, family members working on their farms after school and during school vacations. The original bill included these college-age, young people in the exemption from industrial insurance coverage currently applicable to those under 18 years of age.

Substitute House Bill No. 1178 utilized a different approach in responding to this family farm issue. The implication of which — repealing the current exemption for farm family members under the age of 18 — only recently became clear. Additionally, the approach of the substitute version of the bill appears cumbersome and difficult to implement for the Department of Labor and Industries.

Based upon information offered by the Chair of the House Commerce and Labor Committee, I am convinced the repeal of the current exemption for those under 18 years of age was neither the intent, nor an acceptable outcome, of the legislature's work.

For these reasons, I have vetoed Substitute House Bill No. 1178 in its entirety.

Respectfully submitted,

Mike Lowry
Governor

Concerning social security benefits.

By Representatives Appelwick and Padden.

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

Background: When the Social Security administration pays Social Security disability dependency benefits on behalf of a child of a disabled person, the benefits are a credit against any child support obligation owed by the disabled person.

Social Security payments are also made to children when the obligated parent is retired or deceased. No state statute addresses whether these payments should be credited against any outstanding child support obligation. A recent case has held that the court has discretion to determine whether to treat Social Security retirement benefits as a credit against the support obligation. Another recent case has held that Social Security survivors insurance benefits will be credited against an estate's child support obligations only when the dissolution decree explicitly provides for the credit.

Summary: When the Social Security administration pays Social Security retirement benefits or survivors insurance benefits on behalf of a child of a retired or deceased person, those benefits must be credited towards the retired or deceased person's child support obligations.

Votes on Final Passage:

House 94 0
Senate 45 0 (Senate amended)
House 97 0 (House concurred)

Effective: July 23, 1995

Concerning the loan security ratio.

By Representatives L. Thomas, Dyer, Grant, Benton, Campbell, Costa, Pelesky, Huff and Mielke.

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

Background: Consumer loan companies are regulated by state law. The maximum interest rate consumer loan companies can legally charge is 25 percent per year. Other statutory provisions limit the amount of fees these companies may charge for making a loan and, for loans secured by real estate, limit the maximum loan-to-value ratio to 90 percent.

These companies are licensed by the Department of Financial Institutions and must be examined at least once each 18 months.

Summary: The statutory provision limiting the maximum loan-to-value ratio to 90 percent for real estate loans made by consumer loan companies is removed. The director of the Department of Financial Institutions shall determine, by rule, how often consumer loan companies are examined.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 23, 1995

HB 1189

C 169 L 95

Revising provisions relating to dissemination of criminal history information by the Washington state patrol.

By Representatives Robertson, Chappell, Padden, Thompson, Blanton, Sheahan, Basich, McMahan and Dickerson; by request of Washington State Patrol.

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

Background: Employers may ask the Washington State Patrol to conduct a criminal history background check of a prospective or current employee under a variety of circumstances. One provision of current law requires employers to submit a written request. Current technology allows requests to be submitted electronically.

All receipts from charges for fingerprint checks requested by school districts are deposited in a fingerprint identification account in the State Treasurer's custody. Receipts for fingerprint checks by the Federal Bureau of Investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the Chief of the State Patrol or the Chief's designee may authorize expenditures from the account.

The fingerprint identification account is currently an unappropriated account, but an appropriation will be required for expenditures from the account after June 30, 1995.

Summary: Employers may request background checks from the Washington State Patrol electronically as well as in writing.

All receipts from charges for fingerprint checks requested for noncriminal justice purposes and from electronic background requests must be deposited in the fingerprint identification account.

The fingerprint identification account will remain an unappropriated account through June 30, 1997. On and after July 1, 1997, the account will be subject to appropriation.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: July 23, 1995

HB 1190

C 170 L 95

Transferring the aeronautics account and the aircraft search and rescue, safety, and education account to the transportation fund.

By Representatives K. Schmidt, R. Fisher, Mitchell and Koster; by request of Department of Transportation.

House Committee on Transportation
 Senate Committee on Transportation

Background: The aeronautics account provides funds for the administration of the Department of Transportation's Aviation Division. The account also supports state and local airports and maintenance of state-owned airports. The aircraft search and rescue, safety, and education account provides funds for the search and rescue of lost and downed aircraft, and for air safety and education. Both are dedicated accounts within the state general fund. Monies from the accounts are appropriated by the Legislature.

Summary: The aeronautics account and the aircraft search and rescue, safety, and education account are moved from the state general fund to the transportation fund.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: July 23, 1995

SHB 1192

C 171 L 95

Revising vehicle load fees.

By House Committee on Transportation (originally sponsored by Representatives Robertson, R. Fisher and K. Schmidt; by request of Department of Transportation).

House Committee on Transportation
 Senate Committee on Transportation

Background: The federal bridge formula is a nationally recognized weight table that states are required to use when determining the maximum gross weight a vehicle may legally carry on a highway. The formula is based on the relationship between gross weight, the number of axles used and the spacing between axles. A recent review by the Federal Highway Administration concluded that

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Washington's statutory weight table, which is based on the federal bridge formula, contained five inconsistencies.

The overweight fee schedule is the statutory fee schedule, designed to recover costs associated with vehicles carrying nondivisible loads that exceed legal vehicle weight limitations. The schedule reflects the geometric increase in pavement damage as overlegal weights increase. Legal limitations are 105,500 pounds gross vehicle weight and/or 20,000 pounds on a single axle, 34,000 pounds on a tandem axle. The schedule is a graduated fee per mile, based on excess weight "over total registered gross weight." The schedule is capped at 80,000 pounds "over total registered gross weight." A recent review by the Department of Transportation indicates two problems with this verbiage:

(1) "Over total registered gross weight." It is possible for a vehicle to be within the limits of its legal registered gross weight but, because of the type of nondivisible load it is carrying, certain axles may have exceeded legal axle limits.

To ensure that both registered gross weight and axle weight limitations are considered when determining when to apply the overweight fee schedule, the term "weight over total registered gross weight" needs to be changed to "excess weight over legal capacity."

(2) 80,000 pound cap. Because the fee schedule is capped, loads exceeding the fee schedule are not paying in proportion to the added cost to the highway. The fee schedule falsely assumes that, at 80,000 pounds over total registered gross weight, the cost no longer increases. For example, a vehicle registered at 105,500 pounds carrying an additional 80,000 pounds (total of 185,500 pounds) pays the same fee as a vehicle registered at 105,500 pounds carrying an additional 150,000 pounds (total of 255,500 pounds). As of 1990, this fee schedule would have handled almost anything that moved on the highway without reaching the capped upper limit. Since then, however, there has been a growth in specialized moves exceeding the cap. A few of these moves have been in the 300,000 to 400,000 pound gross weight range (i.e., hydroelectric plant transformers). If cost recovery is to be kept in proportion to cost incurred, the cap would have to be removed.

Summary: Washington state's statutory weight table is brought into compliance with the federal bridge formula.

The overweight fee schedule applies to "excess weight over legal capacity" to ensure that both the registered gross weight and axle weight limitations are considered when applying the schedule.

The 80,000 pound cap on the state's overweight fee schedule for nondivisible loads is removed. The graduated schedule is revised to recover cost per mile for vehicles exceeding either gross weight or axle weight legal limits. The schedule begins at 7 cents per mile for 0 to 9,999 pounds over legal capacity and graduates geometrically to \$4.25 per mile for 100,000 pounds over legal capacity.

The schedule continues with a fixed increment of 50 cents for each 5,000 pounds in excess of the 100,000 pound fee.

Votes on Final Passage:

House	96	1
Senate	45	0

Effective: July 23, 1995

HB 1193

C 271 L 95

Giving the department of transportation discretion in setting capital facility rental rates.

By Representatives Benton, Mitchell, K. Schmidt and R. Fisher; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Transportation

Background: Beginning in July 1991, the Department of Transportation was required to set and charge rental rates to department programs for the use of its real property, buildings or structures. Receipts from rental charges are to be placed in the transportation capital facilities account. Monies in that account are to be used to purchase, construct, repair, maintain and operate such real property or structures to carry out the duties of the department for the state transportation system.

The 1993-95 transportation budget did not include the appropriation authority for each program to pay the rental charges to the account. Rather, monies were appropriated directly from the motor vehicle fund to the capital facilities account.

Summary: The requirement that the Department of Transportation charge rental rates to department programs for use of department-owned real property, buildings, or structures is repealed. The requirement that those charges be deposited into the transportation capital facilities account is also repealed.

Votes on Final Passage:

House	94	1	
Senate	42	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995

SHB 1195

C 237 L 95

Excluding site exploration as a substantial shoreline development.

By House Committee on Transportation (originally sponsored by Representatives Buck, R. Fisher, K. Schmidt,

Benton, Mitchell, Elliot, Stevens, Mulliken and Hickel; by request of Department of Transportation).

House Committee on Transportation
Senate Committee on Ecology & Parks

Background: The Shorelines Management Act (SMA) requires a permit from local government before any substantial development can be undertaken within the shorelines of the state. The SMA defines "substantial development" as a project that interferes with the public's normal use of the water or a project with a total cost exceeding \$2,500.

The Department of Transportation (DOT) typically conducts a number of site exploration and investigation activities prior to building a road or bridge. Some local jurisdictions require the department to obtain a substantial development permit to perform these activities while others do not.

When permits are required, the DOT indicates it takes an average of nine months to obtain them.

The department indicates that approximately \$1.7 million in costs could be avoided if the delays caused by obtaining shoreline permits for these investigative activities were eliminated.

Summary: Site exploration and investigation activities are exempt from substantial development permits if the following conditions are met:

1. the activity does not interfere with the normal public use of the water;
2. the activity has no adverse environmental impacts;
3. the activity does not involve installation of a structure;
4. any disturbance to land or vegetation caused by the exploration or investigation is restored to pre-existing conditions;
5. the activity does not involve oil or natural gas exploration in marine waters of the state; and
6. private developers post required performance bonds or other evidence of financial responsibility in lieu of a performance bond.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995

SHB 1205

C 319 L 95

Modifying physician self-referral provisions.

By House Committee on Health Care (originally sponsored by Representative Dyer; by request of Department of Social and Health Services).

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

Background: Since 1979, laws governing medical assistance have made it illegal to receive any remuneration, such as kickbacks, bribes, or rebate, in return for referring an individual to a person or organization for services, or for purchasing, leasing, or ordering goods or services when payment is made for medical assistance benefits. Violation of this provision is a class C felony (up to five years in prison and a \$25,000 fine). As a condition of the 1993 federal Medicaid amendments, which take effect in 1995, states were specifically required to prohibit certain physician referrals for certain services.

Some health care entities, which are not licensed in this state, cannot purchase drugs for local facilities.

Summary: Except as permitted by federal law, it is illegal for physicians to self-refer any medical assistance client eligible for the following health services to a facility in which the physician or an immediate family member has a financial relationship: clinical laboratory services; physical therapy services; occupational therapy services; radiology or other diagnostic services; durable medical equipment; parenteral and enteral nutrients equipment and supplies; prosthetics, orthotics, and prosthetic devices; home health services; outpatient prescription drugs; and inpatient and outpatient hospital services.

This prohibition does not apply to services exempted by federal law, including:

- (1) self-referral for physician services provided personally by the physician or another physician in the same group practice, including managed care arrangements;
- (2) self-referral for in-office ancillary services furnished by, or personally supervised by, the referring physician or another physician in the group;
- (3) rural physicians with financial interest in the facilities/services to refer Medicaid clients to the facilities; and
- (4) self-referral for designated services to hospitals in which the referring physician has an ownership interest.

Health care entities, which are not otherwise licensed by the state, may obtain a "license of location" which enables the owner to purchase legend drugs or controlled substances at the specific location named in the license. Health care entities covered by this provision are free-standing outpatient surgery centers, free-standing cardiac care centers or kidney dialysis centers. Individual practitioner's offices or multi-practitioner clinics are not covered. Health care entities must obtain these licenses annually in

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accordance with rules established by the Board of Pharmacy. These licensed health care entities are allowed to receive, administer, dispense, and deliver controlled substances and legend drugs only under the supervision of a pharmacist.

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

ESHB 1206

PARTIAL VETO

C 239 L 95

Restructuring the retirement systems.

By House Committee on Appropriations (originally sponsored by Representatives Carlson, Sommers, Cooke and Dellwo).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The teachers' retirement system (TRS) Plan 2 consists of state teachers hired after October 1, 1977. Certain educational staff associates who are certificated employees working in non-teaching positions, such as librarians, counselors, and psychologists, belong to the public employees' retirement system (PERS) Plan 2.

Throughout a member's career, both employer and employee make contributions to the appropriate retirement system based on a percent of the member's salary. Upon retirement, the member receives a guaranteed "defined benefit" calculated as two percent of the member's final average salary times the number of years worked. Plan 2 members become vested after five years of service and qualify for full service retirement at age 65.

Vested members who leave service before the retirement age may either withdraw their portion of contributions plus 5.5 percent interest, or they may leave their contributions in the retirement system and begin to draw a pension after reaching retirement age.

The Joint Committee on Pension Policy (JCPP) surveyed employers and employees in 1991 and 1992 on the issue of retirement age in the Plan 2 system and found three prevailing concerns. Employees felt that leaving service before age 65 would not yield a good return on their contributions. Younger employees felt they were making contributions to a plan from which they would not benefit. The general sentiment was that the Plan 2 system was paternalistic and inflexible in the form and timing of retirement benefits.

Based on these conclusions, the JCPP adopted policies for developing an alternative to Plan 2. First, post-retirement income should include a combination of Social

Security, retirement benefits, and employee's savings. Second, employees must take an active role in ensuring a sufficient post-retirement income. Third, employees should be given tools for planning their retirement and should have more flexibility in determining the form and timing of their own benefits. Fourth, retirement benefits should provide income after leaving the work force, and should not be used for transitioning between careers. Fifth, a vested employee who leaves employment should receive a retirement benefit that properly reflects his or her length of service.

The JCPP developed Plan 3 in 1993 and further refined it during the 1994 interim. An effort was made to ensure that Plan 3 was as neutral as possible in its effect on employees. The JCPP stated that the plan should not inhibit employees from changing careers or employers, it should not encourage employees to stay in jobs they consider highly stressful, and it should not encourage employees to seek early retirement.

The Department of Retirement Systems administers the various state pension systems. The Deferred Compensation Committee administers deferred compensation and dependent care salary reduction programs for state employees.

Summary: The teachers' retirement system (TRS) Plan 3 is created, consisting of two separate parts: a "defined benefit" portion and a "defined contribution" portion.

Purpose. TRS Plan 3 is designed to give vested employees more flexibility in determining the form and timing of their benefit and to allow employees to change careers. The plan also allows employees to obtain a reasonable value toward their retirement benefit if they decide to leave their employment before retiring. Plan 3 is designed to minimize requests for early retirement, and to create a plan that is comparable in cost to Plan 2. Any new TRS employee hired on or after July 1, 1996, will belong to Plan 3.

Defined Benefit - Employer Contributions. Contributions to the defined benefit portion of the plan will be made by the employer and invested by the State Investment Board (SIB). Upon retirement, members receive a guaranteed benefit of one percent of the member's average final salary for each year of service.

Employer contribution rates under Plan 3 will be similar to employer rates paid under Plan 2. A combined Plan 2 and Plan 3 employer rate will be adopted by the Economic and Revenue Forecast Council every two years. Employer contributions are non-refundable.

Defined Contribution - Employee Contributions. Contributions to the defined contribution portion of the plan will be made by the employee and invested by the State Investment Board or through a self-directed investment authorized by the Employee Retirement Benefits Board (ERBB).

Employees must make a permanent choice from one of three statutorily set contribution rates or from options

developed by the ERBB. The Legislature may authorize a contribution to members' accounts for a biennium through a budget appropriation.

Retirement Age, Vesting, and Disbursement of Contributions: *The Defined Benefit.* Normal retirement age remains 65. Early retirement age is 55 with 10 years of service. Employees who leave employment can obtain the defined benefit allowance at normal retirement age if they are vested by either having 10 years of service or reaching 55 with five years of service.

If the employee has at least 20 years of service and quits before the normal retirement age, the allowance increases at a rate of three percent per year until he or she reaches normal retirement age. This permits employees to leave employment before retirement age yet receive, at retirement age, a defined benefit similar to that which would have been received if the employee had continued to work.

The Defined Contribution. When the employee quits or retires, the employee receives his or her defined contributions plus investment earnings as a lump sum or under other payment options made available by the ERBB. There is no formula-defined pension under the defined contribution portion.

Employee Contribution Rates. TRS Plan 2 employee contribution rates are fixed at the rates in place on July 1, 1996. Beginning September 1, 1998, the employee contribution rate may not exceed the employer Plan 2 and 3 rates. Any benefit increases in Plan 2 will continue to be shared equally between the employer and employee in Plan 2.

Option to Join Plan 3. Members of TRS Plan 2 and educational staff associates belonging to PERS Plan 2 have the irrevocable option to transfer their contributions and service credit to Plan 3. If a Plan 2 member decides to transfer, the member's employee contributions are transferred to the defined contribution portion of Plan 3. Members who transfer by January 1, 1997, will receive an additional 20 percent on the amount of their transferred contributions accumulated as of July 1, 1996.

Administration. The Department of Retirement Systems assumes the powers and duties of the Committee on Deferred Compensation as part of the newly created Employee Retirement Benefits Board. The board consists of eight members appointed by the Governor; the director of the Department of Retirement Systems will serve as the chair and ex-officio member of the board. The eight members include three members representing PERS, one retired and two active; three members representing TRS, one retired and two active; and two members with experience in defined contribution plan administration. The board is responsible for: (1) pre-selected options from which members will choose if they select self-directed investments for their defined contribution portion of Plan 3; (2) optional benefit payment schedules; (3) the approval of annuities; (4) administrative charges for self-directed in-

vestments; and (5) the selection of the investment option for the deferred compensation program.

Votes on Final Passage:

House	95	1	
Senate	34	9	(Senate amended)
House	92	1	(House concurred)

Effective: July 1, 1996

Partial Veto Summary: The partial veto removes a section that is contained in Section 1 of EHB 1131.

VETO MESSAGE ON HB 1206-S

May 5, 1995

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 307, Engrossed Substitute House Bill No. 1206 entitled:

"AN ACT Relating to creating new retirement systems;"

Engrossed Substitute House Bill No. 1206 creates a new Teachers' Retirement System, Plan III. I strongly favor the direction this bill takes in providing more career flexibility and retirement options for our teachers. Section 307 alters the timing for adoption of economic assumptions used in pension valuations from every six years to every two years. The language of section 307 produces the same outcome as that of section 1 of Engrossed House Bill 1131, which is preferable text. Vetoing section 307 avoids an unnecessary double amendment.

For these reasons, I have vetoed section 307 of Engrossed Substitute House Bill No. 1206.

With the exception of section 307, Engrossed Substitute House Bill No. 1206 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 1209

C 272 L 95

Regulating commercial vehicle safety.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Mielke, Johnson, Quall, Mitchell, Buck, Romero, Horn and Huff).

House Committee on Transportation
Senate Committee on Transportation

Background: There are two truck safety inspection programs for the state of Washington. One is a roadside inspection program for all interstate and intrastate for-hire and private carriers. The other is a terminal inspection program for for-hire intrastate carriers and private carriers (26,000 pounds or more) with terminals in the state of Washington.

Washington State Patrol (WSP) Inspection Program: The WSP truck safety program is a roadside inspection and enforcement program that deals with hours of service,

driver qualifications, weight control, equipment violations, vehicle licensing, hazardous materials routing and placarding compliance, etc. The program applies to any commercial motor vehicle that (1) has a gross vehicle weight of 10,000 pounds or more, (2) is designed to transport 16 or more passengers, or (3) is transporting hazardous materials that require placarding. Interstate and intrastate for-hire carriers and private carriers are subject to the WSP's inspection program.

The majority of the truck safety program is conducted by the Commercial Vehicle Enforcement Section at the weigh stations and ports of entry. Random highway inspections are also conducted. Citations may be issued for violation of the driver and vehicle licensing statutes; trip permits; size, weight and load requirements; equipment standards; driving under the influence; all traffic infractions; and misdemeanors/gross misdemeanors and criminal offenses.

The WSP is also charged with an annual inspection of the state's public school buses. An initial inspection is required before a bus is placed in service, and a reinspection is required after major repairs or renovations are made to a bus. The annual inspection consists of (1) inspection of 100 percent of the fleet with prior notification, and (2) inspection of 25 percent of the fleet unannounced.

Utilities & Transportation Commission (UTC) Inspection Program: The UTC truck safety program is mainly a terminal survey enforcement program conducted at the carrier's place of business. A trucking company's office records are inspected for driver qualifications, hours of service and drug testing. Vehicles in the yard are also inspected for equipment violations. The UTC's authority extends to both interstate and intrastate for-hire carriers and private carriers with vehicles weighing 26,000 pounds or more who have terminals in the state of Washington.

Exempt carriers include vehicles transporting the United States mail, newspapers or periodicals; government vehicles, farm vehicles, and towing vehicles.

Citations may be issued for driver and equipment violations. In addition, the commission may impose administrative penalties of \$100 per violation.

Prior to January 1, 1995, the UTC's terminal audits also included economic compliance (rates, routes and permit authority). With intrastate deregulation beginning in 1995, the UTC's economic regulation only applies to for-hire buses, solid waste collection companies (including curbside recycling), private ferries, and household goods carriers.

Summary: Beginning January 1, 1996, the Utilities & Transportation Commission's (UTC's) terminal inspection program and the Washington State Patrol's (WSP's) roadside truck safety inspection program are consolidated in the WSP. The WSP is responsible for enforcement of truck safety, including terminal safety audits. All carriers

with terminals in the state of Washington are subject to terminal safety audits.

Exempt vehicles are: (1) farm vehicles; (2) commercial vehicles regulated by the UTC [household goods carriers (moving and storage companies), auto transportation companies (commercial buses), passenger charter buses, solid waste and collection companies, including their affiliated commercial/curbside recycling operations, and limousines]; and (3) vehicles owned by the federal, state or local governments.

An annual non-refundable \$10 per vehicle inspection fee is collected by the Department of Licensing (DOL) at the time of annual vehicle licensing for each vehicle base-plated in Washington. A portion of the fee may be retained by DOL to cover the cost of administration. The remainder of the fee is deposited in the State Patrol Highway Account in the motor vehicle fund.

The WSP may impose administrative penalties for violations discovered during a terminal audit. The penalty is \$100 per violation. Each violation is a separate and distinct offense. In the case of a continuing violation, each day's continuance is a separate violation (the same penalty and procedures used for common and contract carriers under the UTC's economic jurisdiction).

The UTC's private carrier terminal audit program is repealed.

UTC inspector positions are transferred to WSP under standard agency transfer procedures. The inspectors will only be transferred after passing the WSP background check.

Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	91	0	(House concurred)

Effective: January 1, 1996

HB 1213

C 103 L 95

Revising provisions relating to liability in training of emergency service medical personnel.

By Representatives Brumsickle, Grant, Cody, Basich and McMahan.

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

Background: Immunity from legal liability is accorded emergency service medical personnel while rendering emergency medical services in good faith under the supervision of physicians or approved medical program directors. Immunity also extends to the supervising physicians, medical program directors, hospitals, training

agencies or training physicians, ambulance services, or governmental units and their employees.

The Department of Health must defend and hold harmless the medical program directors in matters related to the good faith performance of their duties.

Immunity from liability does not relieve any physician or hospital from any duty otherwise imposed by law for the designation or training of emergency service medical personnel, nor for any duty for the provision or maintenance of equipment. There is no immunity from legal liability for any training provided to emergency service medical personnel.

Summary: Immunity from legal liability is accorded to those entities and personnel that render services in training emergency service medical personnel for certification or recertification.

The Department of Health must defend or hold harmless hospitals and hospital personnel involved in training emergency services medical personnel for certification or recertification.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: April 19, 1995

SHB 1220

C 172 L 95

Providing a SEPA exemption for air operating permits.

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

House Committee on Agriculture & Ecology
Senate Committee on Ecology & Parks

Background: SEPA Requirement for an Environmental Impact Statement. The State Environmental Protection Act (SEPA) requires all branches of government in the state, including state agencies, municipal and public corporations, and counties to include a detailed statement (environmental impact statement or EIS) in every report or recommendation for major actions that significantly affect the quality of the environment.

The EIS must include: (1) the environmental impact of the proposed action; (2) any adverse environmental effects that cannot be avoided if the proposal is implemented; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. The subjects that must be discussed in the EIS do not have to be discussed as separate

sections. The EIS must accompany the proposal throughout the agency review process.

Operating Permits for Air Contaminant Sources. The Department of Ecology or the board of a local air pollution control authority must require renewable permits for the operation of air contaminant sources, subject to certain conditions. The permits are issued for a term of five years. Every proposed permit must be reviewed by a professional engineer or a staff person under the direct supervision of a professional engineer.

Operating permits apply to all sources of air contaminants where required by the Federal Clean Air Act and to any source that may cause or contribute to air pollution in such quantity as to create a threat to the public health or welfare. The threat to public health or welfare conditions do not apply to small businesses unless the source is in an area exceeding or threatening to exceed federal or state air quality standards, and the department provides a reasonable justification that the permit is necessary.

Each air operating permit must state the origin of and specific legal authority for each requirement included. Every requirement in an operating permit must be based upon the most stringent of the following requirements: (1) the Federal Clean Air Act and the rules implementing the act, including provision of the approved state implementation plan; (2) the Washington Clean Air Act; (3) for permits issued by a local air pollution control authority, the requirements of any order or regulation adopted by that authority; (4) state nuclear radiation control statutes and regulations; and (5) state energy facility site evaluation council statutes and regulations.

It has been suggested that the information required to be submitted for an EIS duplicates the information that must be submitted for the issuance of an air operating permit.

Summary: An environmental impact statement is not required for a decision pertaining to the issuance, renewal, reopening, or revision of an air operating permit.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 23, 1995

HB 1223
FULL VETO

Changing state board of education staff provisions.

By Representatives Brumsickle, Cole, B. Thomas, Silver and Carlson; by request of Board of Education and Superintendent of Public Instruction.

House Committee on Education
Senate Committee on Education

Background: Under current law, the State Board of Education (SBE) is authorized to appoint only an "ex officio secretary," who is to keep a record of board proceedings. Other staff assisting the SBE are employed by the Superintendent of Public Instruction.

The SBE would like the authority to appoint and employ its executive director and other staff.

Summary: The SBE is directed to appoint or employ an executive director, who also shall serve as the board's secretary. The SBE also is directed to appoint or employ other assistants to perform board duties, including duties involving supervision over matters pertaining to the public schools as the Superintendent of Public Instruction may delegate to the SBE.

The executive director and his or her confidential secretary are exempt from civil service requirements.

Votes on Final Passage:

House	96	0
Senate	45	0

VETO MESSAGE ON HB 1223

April 13, 1995

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. 1223 entitled:

"AN ACT Relating to the state board of education office staff;"

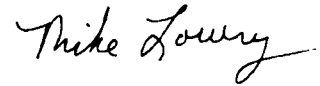
I commend the State Board of Education (SBE) and the Office of the Superintendent of Public Instruction (OSPI) for their cooperation in advancing House Bill No. 1223. I support the intention of giving the SBE more direct control over staff. However, subsequent to passage of the bill, the SBE, OSPI and the Attorney General's office discovered impacts of House Bill No. 1223 not previously recognized. The language of this bill, when combined with the language of RCW 43.09.210, creates an unforeseen fiscal impact for the SBE.

Currently, the Office of the Superintendent of Public Instruction receives the appropriation for SBE expenditures, employs SBE staff, and performs administrative functions. The unforeseen result of implementing the bill, as written, is the transfer of these responsibilities and associated costs directly to the SBE.

The SBE and OSPI have requested the opportunity to work with this office and with the legislature to revise language as necessary to better reflect the intent of House Bill No. 1223.

For these reasons, I have vetoed House Bill No. 1223 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

HB 1224
C 208 L 95

Authorizing waivers for educational restructuring.

By Representatives Brumsickle, Cole, Silver and Carlson; by request of Board of Education and Superintendent of Public Instruction.

House Committee on Education
Senate Committee on Education

Background: In 1987, the Legislature created the Schools for the 21st Century program. The program was designed to enable educators and parents of selected school districts to restructure school operations and develop model school programs that would improve student performance. The program concluded in June 1994.

One of the provisions of the program allowed participating schools to get waivers from specified state requirements, including: the length of the school year, teacher contact hours; program hour offerings; student teacher ratios; salary lid compliance; the commingling of categorical funds; and administrative rules.

This concept of waivers was continued in the education reform legislation in 1992 and 1993. Schools may currently receive waivers from the self-study requirement, the teacher-student contact hour requirement, and portions of the program-hour offering requirement.

It has been suggested that the list of currently available waivers be expanded to include many of those that were available through the Schools for the 21st Century program.

Summary: The State Board of Education and the Superintendent of Public Instruction may grant waivers to school districts from statutes and rules relating to:

- The length of the school year;
- student-to-teacher ratios; and
- other administrative rules that may need to be waived in order for a district to implement a school or school district educational restructuring program.

School districts may apply for waivers using the Student Learning Improvement grant application process or the education restructuring plan application process.

The Joint Select Committee on Education Restructuring is directed to study which waivers of state laws are necessary for school districts to implement education restructuring. The committee is to report its findings to the Legislature by December 1, 1997.

Votes on Final Passage:

House 98 0
 Senate 44 0 (Senate amended)
 House 93 0 (House concurred)

Effective: July 23, 1995

HB 1225

C 274 L 95

Regulating vehicle and fuel licensing.

By Representatives K. Schmidt, R. Fisher, Johnson and Scott; by request of Department of Licensing.

House Committee on Transportation
 Senate Committee on Transportation

Background: (1) Applications made to the Department of Licensing for a certificate of ownership must be made on a proscribed form furnished by the department. With the advancement of computer technology, electronic application is now possible, but not authorized under state law.

(2) In 1993, changes were made to various motor vehicle taxation statutes that exempted certain ride-sharing vehicles. An exemption was given to commuter ride-sharing vehicles carrying not less than four persons, including the driver when at least two of those persons are confined to wheelchairs when riding. This exemption was inadvertently omitted from RCW 82.08.0287 (retail sales tax).

(3) The state administers a motor vehicle fuel importer tax. This tax is applied to any motor carrier importing motor vehicle fuel into this state in fuel supply tanks of any commercial motor vehicle for use in propelling that commercial vehicle.

An alternative and simpler method of reporting and paying the motor vehicle fuel tax is provided by the multi-state motor vehicle fuel tax agreement. The latter tax reporting method is used by most of the industry, with only three companies known to be reporting and paying fuel taxes under the antiquated motor vehicle fuel importer tax statute.

Summary: (1) Applications for certificates of ownership of motor vehicles may be made on any form approved by the Department of Licensing. This allows financial institutions to electronically file application for certificates.

(2) The exemption created for ride-sharing vehicles carrying four or more passengers, including the driver when at least two of those persons are confined to wheelchairs, is extended to the retail sales tax, harmonizing the law with other statutory ride-share tax exemptions.

(3) The motor vehicle fuel importer tax is repealed in lieu of taxes collected under the multistate motor fuel tax agreement.

Votes on Final Passage:

House 97 0
 Senate 48 0 (Senate amended)
 House (Ruled beyond scope)
 Senate 47 0 (Senate receded)

Effective: July 23, 1995

HB 1226

C 104 L 95

Authorizing shellfish to be taken under a salmon charter license.

By Representatives Buck, Basich, Fuhrman and Kessler; by request of Department of Fish and Wildlife.

House Committee on Natural Resources
 Senate Committee on Natural Resources

Background: A charter boat is defined as a boat from which people can, for a fee, fish for food fish or shellfish for personal use. There are two types of charter boats: salmon charter boats and nonsalmon charter boats. Passengers on salmon charter boats may fish for salmon and other food fish, but not for shellfish. Passengers on nonsalmon charter boats may fish for other food fish or shellfish, but not for salmon.

Summary: Passengers on salmon charter boats may fish for shellfish in addition to salmon and other food fish.

Votes on Final Passage:

House 96 0
 Senate 42 0

Effective: July 23, 1995

SHB 1233

C 139 L 95

Avoiding conflicts of interest on election canvassing boards.

By House Committee on Government Operations (originally sponsored by Representatives L. Thomas, R. Fisher and Wolfe; by request of Secretary of State).

House Committee on Government Operations
 Senate Committee on Government Operations

Background: A three-member county canvassing board is established in each county to canvass the returns of every election or primary in that county. The canvassing board consists of the county auditor, chairman of the county legislative authority, and the county prosecuting attorney, or the designated representatives of those officials.

If the primary or election is one in which the county auditor is to be nominated or elected, the canvass of the returns for that office are made by the other two members of the canvassing board. If the two disagree, then the

SHB 1237

returns for that office are canvassed by the presiding judge of the county superior court.

Summary: Provisions relating to designations of persons serving on a county canvassing board are altered so that the named county official designates the person to take his or her position. The designee of the county auditor must be a deputy auditor, the designee of the county prosecutor must be a deputy prosecutor, and the designee of the chairman of the county legislative authority must be another member of the county legislative authority.

A member of a county canvassing board may not be an individual who is a candidate for an office to be voted upon at the primary or election to be canvassed, unless no other individuals qualify for the position on the canvassing board.

If the election or primary is one at which a member of the canvassing board, or the officer designating a member, is a candidate for office, decisions of a voter's intent with respect to a vote cast for that office shall be made by the other two members of the board who were not designated by that officer. If the two disagree on a voter's intent, that vote shall not be counted unless the number of such votes that were not counted could affect the result of the election, in which case the secretary of state or a designee shall make the decisions on votes that are not counted. Decisions on the acceptance or rejection of entire ballots are not restricted by this requirement, unless the office in question is the only one for which the voter cast a vote.

Under rules adopted by the secretary of state, a county canvassing board may delegate the performance of any task that is assigned by law to the board. The delegation must be in writing or done at a public meeting.

An unused statute is repealed that relates to canvassing votes in a city with a commission plan of government.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 23, 1995

SHB 1237

C 275 L 95

Specifying responsibility for payment of costs incurred on appeal by indigent persons.

By House Committee on Law & Justice (originally sponsored by Representatives Padden, Foreman, Honeyford, Chandler, Mielke, Johnson, Blanton, Goldsmith, Clements, Hickel, Dyer, Backlund, Schoesler, McMahan, Boldt, Sheahan, Koster, Sherstad and Smith).

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

Background: The state must provide an indigent convicted defendant with appointed counsel at state expense to assist the defendant in prosecuting a first appeal that is granted as a matter of right. A number of statutes and court rules limit prosecution of subsequent appeals and collateral attacks.

The court determines whether to appoint counsel at public expense on a case-by-case basis in accordance with applicable court rules.

The court may order a convicted defendant to pay costs based on certain criteria. The statute that authorizes recoupment of costs does not expressly include or exclude costs on appeal.

When a juvenile is adjudicated of an offense, the court may order the juvenile, the juvenile's parent, or another person legally obligated to support the juvenile to pay for publicly funded counsel based on ability to pay. No statutory provision exists for payment of attorneys' fees or costs on appeal.

Summary: Additional restrictions are placed on providing counsel for indigent adults and juveniles convicted of offenses when filing petitions for "collateral attack" or motions for discretionary review.

Counsel will be provided at public expense to an adult defendant convicted of a crime and a juvenile offender convicted of an offense when the offender:

- (1) Files a direct appeal as a matter of right;
- (2) Responds to the state's direct or discretionary appeal;
- (3) Faces the death penalty and files a first collateral attack.
The court may appoint counsel in a death penalty case to file a second or subsequent attack if the court determines the attack is not frivolous or time-barred.
- (4) Files a first collateral attack that the chief judge has determined is not frivolous;
- (5) Responds to a collateral attack by the state or files an appeal of a decision on a collateral attack filed by the state;
- (6) Pursues a motion or petition for review upholding a decision from a court of limited jurisdiction after the Supreme Court or an appellate court has accepted discretionary review; and
- (7) Pursues a motion or petition for review of an appellate court decision after the Supreme Court has accepted discretionary review.

Counsel will not be provided at state expense for an indigent person:

- (1) Who is facing the death penalty and files a second or subsequent collateral attack that is frivolous or time-barred; or
- (2) Who is not facing the death penalty files and prosecutes a first collateral attack that is determined to be frivolous, or files a second or subsequent collateral attack.

An offender may be required to pay appellate costs. A juvenile's parents or another person legally obligated to support a juvenile may also be required to pay appellate costs. Costs are limited to expenses specifically incurred by the state in prosecuting or defending an appeal or a collateral attack. A court may grant relief from the financial obligation if payment will impose a manifest hardship on the offender or the offender's immediate family.

Votes on Final Passage:

House	82	12	
Senate	47	1	(Senate amended)
House	93	3	(House concurred)

Effective: July 23, 1995

SHB 1241

C 140 L 95

Providing waivers of electric and gas utility connection charges.

By House Committee on Energy & Utilities (originally sponsored by Representatives Crouse, Casada, Dellwo, Chappell, Schoesler, Honeyford, Hymes, Sherstad, Backlund, Mastin, Benton, Campbell and Kremen).

House Committee on Energy & Utilities
Senate Committee on Energy, Telecommunications & Utilities

Background: Some charitable organizations make interest-free purchase of housing available to low-income persons who would otherwise be unable to purchase homes.

However, persons purchasing the homes often must pay utility connection charges, because the authority of public utilities to waive such charges is unclear.

While rates and charges by a particular utility generally must be uniform for the same class of service, connection charges imposed by different utilities vary widely. For example, one utility may charge nothing, while another utility may charge over \$1,000 to connect a new house.

Summary: Public utility districts and municipal electric and gas utilities may waive, but are not required to waive, connection charges for properties being purchased from organizations that are tax-exempt under section 501(c)(3) of the Internal Revenue Code.

Waivers of connection charges for the same class of electric or gas utility service must be uniformly applied to all qualified property.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 23, 1995

SHB 1246

C 141 L 95

Regulating private school buses.

By House Committee on Transportation (originally sponsored by Representatives Kremen, Goldsmith, Mastin, Kessler, Van Luven, Dyer, Sheldon, Hymes, Quall, Basich, Morris, Chandler, Backlund, Talcott and Sheahan).

House Committee on Transportation
Senate Committee on Transportation

Background: A private carrier bus is a vehicle with a seating capacity of 11 or more, used regularly to transport persons to organized agricultural, religious, charitable or other activities. A school bus is a vehicle used regularly to transport children to and from school or in connection with school activities; the vehicle must meet the standards established by the Superintendent of Public Instruction (SPI) in the "Specifications for School Buses."

Although private school buses meet the federal standard ("National Standards for School Buses"), a private school bus is classified as a "private carrier bus" rather than a "school bus." This is because the vehicle does not meet the more stringent school bus standards established by SPI. Because of this restriction, the words "school bus" cannot be displayed above front and rear windows of a private school bus.

A school bus and private carrier bus used as a school bus are exempt from annual vehicle registration [basic registration and motor vehicle excise tax (MVET)]. All public school bus drivers must have a commercial driver's license (CDL). The driver of a private carrier bus with a seating capacity of 16 or more passengers, including the driver, must have a CDL.

Summary: A private school bus may display the words "school bus" above the front and rear windows of the bus.

A private school bus need not comply with the requirements of the "Specifications for School Buses" published by SPI in order to display the words "school bus." However, private carrier buses must comply with the "National Standards for School Buses" established by the National Safety Council and adopted by Washington State Patrol (WSP) rule.

Votes on Final Passage:

House	96	1
Senate	46	0

Effective: July 23, 1995

ESHB 1247

C 173 L 95

Promoting horse racing.

By House Committee on Commerce & Labor (originally sponsored by Representatives L. Thomas, Lisk, G. Fisher,

SHB 1248

Robertson, Casada, Basich, Clements, Ebersole, Horn, Boldt, Mason, B. Thomas, Cairnes, Radcliff, Foreman, Cooke, Chandler, Mielke, Dyer, Mitchell, Schoesler, Skinner, Appelwick, Sheldon, Costa and Morris).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: The Washington Thoroughbred Racing Fund was created in 1991. Licensees who were nonprofit corporations and had race meets of 30 days or more were required to pay to the Horse Racing Commission 2.5 percent of their daily gross receipts. The commission was required to deposit these 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), that operated Longacres Park in its final two years of existence. During that time, Emerald contributed over \$8,000,000 to the Washington Thoroughbred Racing Fund.

Money in the fund could be spent only after legislative appropriation and for the following purposes: (1) support of the interim continuation of thoroughbred racing; (2) capital construction of a new race track facility; and (3) programs enhancing the general welfare, safety, and advancement of Washington's thoroughbred racing industry.

After Longacres closed in 1992, Emerald was awarded the license to operate the 1993 summer races at Yakima Meadows. In 1993, the Legislature reduced the amount contributed to the Thoroughbred Racing Fund to 1.25 percent of daily gross receipts and allowed Emerald to retain the other 1.25 percent to enhance purses for winning horses. Also in 1993, \$8.2 million was appropriated from the fund to the Horse Racing Commission subject to certain restrictions. Expenditures must protect the state's long-term interest in the continuation and development of thoroughbred racing. No money could be spent until the Horse Racing Commission determined that an applicant for a new race track had the ability to complete construction of the facility and fund its operation, and the applicant had completed all the permit requirements for construction of the new facility. No expenditures have been made from this fund.

In 1994, the Legislature allowed Emerald to retain the 1.25 percent of daily gross receipts that it had been contributing to the Thoroughbred Racing Fund, and deposit that amount into an escrow or trust account for construction of a new race track facility in western Washington. This arrangement was to continue until June 1, 1995. Thereafter, 2.5 percent would again go to the commission for deposit into the Thoroughbred Racing Fund. If no race track is built by 2001, all money in the escrow or trust account reverts to the state general fund.

Summary: A non-profit licensee having race meets of 30 days or more, may continue to retain 2.5 percent of its daily gross receipts but must continue to dedicate 1.25 percent to enhance purses and to deposit 1.25 percent to be

deposited in a trust account for construction of a new facility in western Washington. No termination date is specified and no future contribution to the Thoroughbred Racing Fund is required.

Votes on Final Passage:

House	95	2
Senate	43	0

Effective: May 1, 1995

SHB 1248

C 352 L 95

Providing tax deferrals for a new thoroughbred race track facility.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Van Luven, G. Fisher, Boldt, Carrell, Campbell, Mason, Ebersole, B. Thomas, Cairnes, Radcliff, Cooke, Chandler, Mielke, Ballasiotes, Robertson, Mitchell, Schoesler, Appelwick, Sheldon, Costa, Morris, Basich and Conway).

House Committee on Trade & Economic Development
Senate Committee on Labor, Commerce & Trade
Senate Committee on Ways & Means

Background: The state retail sales tax is imposed on sales of most articles of tangible personal property, construction including labor, repair of tangible personal property, and certain services. The state use tax applies to items used in this state, the acquisition of which was not subject to the retail sales tax, including purchases in other states, purchases from sellers who do not collect Washington sales tax and items produced for use by the producer. The retail sales and use taxes are equal and are based on the value of the property or service. These taxes are imposed by both the state (6.5 percent) and the local government (up to 1.7 percent).

Summary: A retail sales and use tax deferral is created for "a new thoroughbred race track facility." The tax deferral applies to all materials, equipment, and labor used to construct or equip the facility. The retail sales and use taxes are deferred, interest free, for a 5-year period. The deferred taxes are required to be repaid over a 10-year period.

"A new thoroughbred race track facility" is defined as a site for thoroughbred racing located west of the Cascade mountains on which construction is started by July 1, 1998.

The Department of Revenue must adopt rules for the administration of the thoroughbred race track tax deferral.

Votes on Final Passage:

House	92	2	
Senate	44	3	(Senate amended)
House			(House refused to concur)
Senate	43	2	(Senate amended)
House	94	2	(House concurred)

Effective: May 16, 1995

HB 1249

C 209 L 95

Extending the time for developing essential academic learning requirement Goal 2 assessments.

By Representatives Brumsickle and Cole; by request of Office of Financial Management and Superintendent of Public Instruction.

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

Background: The Commission on Student Learning, which was created by the Legislature in 1992, is directed to identify "essential academic learning requirements" for students in Washington's public schools, and to develop an assessment system for determining if students have mastered the essential learnings. The essential learnings and assessments are to be based on four state goals that were adopted in ESHB 1209 by the 1993 Legislature.

Current law requires the assessment system for reading, writing, communication, and math (Goal #1 and math) to be ready for voluntary implementation by school districts in the 1996-97 school year. Phase 2 of the assessment system, which includes the sciences, civics and history, geography, arts, health and fitness, analytical thinking, and career-related knowledge (Goals #2, #3, and #4), is to be ready for voluntary implementation in the 1997-98 school year. All school districts are required to participate in the assessment system in the 2000-2001 school year.

In order to reduce expenditures in the 1995-97 biennium and level-out the workload requirements of the Commission on Student Learning, it has been suggested that the voluntary implementation date for Phase 2 of the assessment system be delayed one year.

Summary: The timeline of the Commission on Student Learning for developing Phase 2 of the assessment system is modified. The implementation date is postponed from the 1997-98 school year to the 1998-1999 school year. The school year in which all school districts are required to participate is not changed.

The expiration of the Commission on Student Learning is moved from September 1, 1998, to June 30, 1999. The due date for recommendations regarding a revised accountability system is moved from December 1, 1998, to June 30, 1999.

Votes on Final Passage:

House	98	0	
Senate	41	0	(Senate amended)
House	92	0	(House concurred)

Effective: July 23, 1995

SHB 1250

C 276 L 95

Providing for prompt payment of industrial insurance awards.

By House Committee on Commerce & Labor (originally sponsored by Representatives Cole, Cody, Conway, Basich, Scott, Costa and Chopp).

House Committee on Commerce & Labor
 Senate Committee on Labor, Commerce & Trade

Background: If a self-insurer refuses or neglects to comply with an industrial insurance compensation order which has become final, the Department of Labor and Industries or the person entitled to relief may begin court proceedings for enforcement of the order. There are no comparable provisions in statute that apply to the department's failure to pay compensation under a final order, and there are no time limits for compliance with such an order.

Summary: If a worker or beneficiary prevails in an appeal by any party to the Board of Industrial Insurance Appeals or the courts, the Department of Labor and Industries must comply with the board's or court's order respecting payment of compensation either within 60 days after the order has become final and is not subject to further review or, if the order has become final and documents necessary to make payments have been requested from the injured worker, within 60 days after the documents have been returned by the injured worker. The department must make the request for documents within 60 days after the order becomes final. The department may extend the 60-day time period an additional 30 days for good cause.

Provisions are added to authorize proceedings against the department if the department fails to comply with the board or court order and to establish penalties against the department. In proceedings brought under these provisions, the court may order a penalty of up to \$1,000 to the person entitled to relief.

The bill applies to all appeals in state fund claims determined on or after the bill's effective date.

SHB 1270

Votes on Final Passage:

House	96	0	
Senate	37	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

SHB 1270

C 393 L 95

Excusing small tree harvesters from the commercial driver's license requirements.

By House Committee on Transportation (originally sponsored by Representatives Morris, Benton, Sheldon, Pennington, Basich, Chappell, Kessler, Schoesler, Boldt, Hatfield, Stevens and Johnson).

House Committee on Transportation
Senate Committee on Transportation

Background: A driver of a commercial vehicle must obtain a commercial driver's license with an endorsement for the type of vehicle he or she is driving. The law exempts farmers who use their own vehicles to transport their agricultural products or farm-related materials distances less than 150 miles from their farms. It also exempts drivers of emergency vehicles and recreational vehicles used for noncommercial purposes.

Summary: Farmers who haul Christmas trees and wood products from their own private tree farm need not obtain a commercial driver's license when using vehicles that do not exceed 40,000 pounds licensed gross vehicle weight.

Votes on Final Passage:

House	97	0	
Senate	41	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

SHB 1273

C 320 L 95

Refunding fuel taxes to Indian tribes.

By House Committee on Transportation (originally sponsored by Representatives Fuhrman, Blanton, Elliot and McMorris).

House Committee on Transportation
Senate Committee on Transportation

Background: Washington state imposes taxes upon the distribution, sales, transfer, use or possession of motor vehicle fuel and diesel and other special fuels within the

state. Revenues from these taxes are used exclusively for highway purposes.

Summary: The Department of Licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within Washington State regarding the imposition, collection, or use of motor fuel tax or special fuel tax. The terms of the agreement must be substantially the same as the consent decree in *Confederated Tribes of the Colville Reservation v. DOL, et al.*

Votes on Final Passage:

House	98	0	
Senate	43	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 11, 1995

SHB 1279

C 8 L 95 E2

Providing a sales tax exemption for certain sales of magazines by subscription.

By House Committee on Finance (originally sponsored by Representatives Pennington, Morris, Schoesler, Campbell, Boldt, Carrell, Mielke, Van Luven, Hymes, McMahan, Mulliken, Foreman, Blanton, Sherstad, Elliot, Backlund, Johnson, L. Thomas and Huff).

House Committee on Finance

Background: The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services.

Major items exempt from sales tax include food for human consumption, prescription drugs, motor vehicle fuel, utility services, professional services (e.g. medical, legal), certain business services (e.g. accounting, engineering), and items that become a component part of another product for sale.

The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms, including purchases by mail order. The United States Supreme Court has ruled that states cannot require out-of-state businesses to collect state sales or use taxes unless the business has a physical presence in the state. Therefore, tax is not generally collected on magazine subscription purchases by mail order.

Washington law does not provide a general exemption from the retail sales tax for nonprofit organizations or government agencies. Most sales tax exemptions are for specific items, such as food for home consumption and prescription drugs. Nonprofit organizations generally

collect tax from purchasers when selling goods and services subject to sales tax and pay tax when buying goods and services subject to sales tax. A few exemptions exist for nonprofit organizations such as sales of amusement and recreation services by nonprofit youth organizations, sales to the Red Cross, sales of art objects to nonprofit artistic and cultural organizations, and fund raising auction sales by public benefit nonprofit organizations.

Summary: The sale of magazines by subscription for fund raising purposes by (1) educational institutions, or (2) nonprofit organizations engaged in activities for the benefit of boys and girls 19 years and younger is exempt from sales tax.

Votes on Final Passage:

House 97 0

First Special Session

House 97 0

Second Special Session

House 93 0

Senate 47 0

Effective: July 1, 1995

HB 1280

C 142 L 95

Revising procedures for offenders who violate conditions or requirements of sentences.

By Representatives Sherstad, Radcliff, Ballasiotes, Blanton, Cole, Tokuda and Dickerson; by request of Department of Corrections.

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: Under the Sentencing Reform Act, an offender who violates a term of his or her sentence can be given additional punishment. A court hearing is held to determine whether the violation occurred. The court may impose up to 60 days for each violation, and may also (a) convert a term of partial confinement to total confinement, (b) convert community service hours to total or partial confinement, or (c) convert certain monetary obligations to community service hours.

Because court calendars are often overcrowded, the Department of Corrections has experienced difficulty in some counties having sanctions imposed in a timely manner.

Summary: When an offender violates a sentence condition, the Department of Corrections may administratively impose sanctions by entering into a stipulated agreement with the offender.

Available sanctions under these agreements are: work release, home detention with electronic monitoring, work crew, community service, inpatient treatment, daily reporting, curfew, education or counseling, supervision through

electronic monitoring, jail time, and other community sanctions.

The department must submit the agreement within three days to the judge and local prosecuting attorney. If the judge is not satisfied with the agreement, the judge has 15 days to schedule a hearing to address the violation and the proper penalty. The offender may withdraw from the agreement if a court hearing is held.

If the offender violates the stipulated agreement, the court may impose punishment both for the original violation and for the violation of the agreement.

The new sanctions are also available to the judge to punish violations that are not resolved through a stipulated agreement.

Votes on Final Passage:

House 92 0

Senate 48 0

Effective: July 23, 1995

HB 1282

C 210 L 95

Authorizing landowners to kill coyotes and Columbian ground squirrels.

By Representatives Fuhrman, Mastin, Buck, Goldsmith, Koster, Padden, Mulliken, Lambert, Crouse, Thompson, Basich, Hargrove, Sheldon, McMahan, Pelesky, Sheahan, Boldt and Elliot.

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: In Washington, a person must have a hunting license in order to hunt for wild animals.

Under current law, the owner or tenant of real property may trap or kill on that property wild animals or wild birds, other than endangered species, that are damaging crops, domestic animals, fowl, or other property. Wildlife trapped or killed under this provision remains the property of the state, and the person trapping or killing the wildlife must notify the Department of Fish and Wildlife immediately. The department is to dispose of the wildlife within three working days of the notification.

Summary: The individuals who may also trap or kill wild animals or wild birds, other than endangered species, that are damaging crops, domestic animals, fowl, or other property are expanded to include immediate family members and employees of the property owner.

The property owner, family member, employee, or tenant killing or trapping wild animals or wild birds under this provision is not required to have a hunting license. Coyotes and Columbian ground squirrels trapped or killed under this provision do not remain the property of the state and will not be disposed of by the Department of Fish and Wildlife.

HB 1285

Votes on Final Passage:

House 79 17
Senate 46 0 (Senate amended)
House 81 11 (House concurred)

Effective: July 23, 1995

HB 1285

C 10 L 95

Allowing persons that provide the insurance commissioner with surplus line insurance information to gain immunity from civil liability.

By Representatives L. Thomas, Dellwo, Mielke, Benton, Huff, Wolfe, Campbell, Costa, Pelesky, Dyer, Kessler, Smith and Beeksma.

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

Background: Generally, an insurance company cannot engage in the business of insurance in Washington State unless the insurance company is authorized to do so by the Office of the Insurance Commissioner (OIC). "Surplus lines" insurance coverage is an exception to this rule. Surplus lines insurance can be procured from unauthorized insurance companies when certain requirements are met.

Surplus lines insurance is coverage that cannot be procured from authorized insurance companies. Surplus lines insurance covers risks that do not fit normal underwriting patterns or standard insurance policies. While not subject to regulations governing premium rates or policy language, surplus lines insurance is regulated in other ways. For instance, surplus lines insurance can only be procured through a broker licensed in Washington State to sell surplus lines insurance, and surplus lines brokers cannot knowingly place insurance with insolvent insurers.

The OIC can take action against surplus line brokers for violating statutes and regulations regarding surplus lines insurance.

Summary: Agents, brokers, solicitors, and adjusters and surplus lines trade associations who furnish information to the Office of the Insurance Commissioner regarding unauthorized insurers are immune from civil liability for providing the information.

Votes on Final Passage:

House 94 0
Senate 46 0

Effective: July 23, 1995

SHB 1287

C 143 L 95

Authorizing silvicultural burning to correct a forest health problem under certain circumstances.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives McMorris, Horn, Chandler, Regala, Mastin, Clements, Koster, Robertson, Johnson, Boldt, Chappell, Schoesler and Rust).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Ecology & Parks

Background: The Department of Natural Resources (DNR) administers the state's silvicultural burning permit program. The issuance and use of such permits must comply with air quality standards established by the Department of Ecology. State law directs the DNR to set smoke dispersal objectives for the silvicultural burning program that are consistent with the air quality standards.

The DNR also administers a program for reducing state-wide emissions from silvicultural forest burning. The program was given emission-reduction targets by statute. Using the average annual emissions level from 1985 to 1989 as the baseline, emissions were to be reduced by 20 percent by December 31, 1994. By December 31, 2000, emissions must be reduced to 50 percent of the baseline. The DNR indicates that particulate emissions in 1993 were below the December 2000 level.

Summary: Under certain conditions, emissions from silvicultural burning in eastern Washington conducted to restore forest health or to prevent additional deterioration of forest health are exempted from the targets and calculations made under the DNR's emission reduction program for silvicultural forest burning. The emissions are exempted if:

- (1) The landowner submits a written request to the department including a brief description of alternatives to silvicultural burning and reasons why the landowner believes the alternatives are not appropriate.
- (2) The department determines that the proposed burning operation: is being conducted to restore forest health or to prevent additional deterioration to forest health; meets the requirements of the state smoke management plan to protect public health, visibility, and the environment; and will not be conducted during an air pollution episode or during periods of impaired air quality in the vicinity of the proposed burn.
- (3) The landowner is encouraged to notify the public in the vicinity of the burn the general location and approximate time of ignition.

The Department of Ecology is authorized to conduct a limited, seasonal ambient air quality monitoring program to measure the effects of such burnings.

Votes on Final Passage:

House 98 0
 Senate 41 0

Effective: July 23, 1995

HB 1295

C 144 L 95

Providing retirement system benefits upon death of member or retiree.

By Representatives Carlson, Sommers, Sehlin and Basich; by request of Department of Retirement Systems.

House Committee on Appropriations
 Senate Committee on Ways & Means

Background: Members of most state retirement systems can designate beneficiaries to receive their accumulated contributions, should the member die before retirement. In some systems, members who retire for disability can designate a beneficiary to receive any excess contributions remaining after the member's death.

In these cases, the beneficiary must be "a person." Members cannot designate trusts, organizations, or their estates as beneficiaries. Additionally, the designated person must have an "insurable interest" in the member's life. An "insurable interest" requires a close blood or legal relationship or a lawful and substantial economic interest.

In some systems, retired members may choose to receive an actuarially reduced retirement benefit that continues to be paid to a designated beneficiary upon the member's death. To receive this benefit, the survivor must have an "insurable interest" in the member's life.

Summary: A member may designate a person or persons, a trust, an organization, or the member's estate to receive a refund of the member's contributions. Beneficiaries designated to receive contribution refunds or survivor's benefits need not have an "insurable interest" in the member's life.

Votes on Final Passage:

House 96 0
 Senate 48 0

Effective: July 23, 1995

HB 1297

C 145 L 95

Calculating retiree benefits.

By Representatives Sehlin, Sommers and Carlson; by request of Department of Retirement Systems.

House Committee on Appropriations
 Senate Committee on Ways & Means

Background: State retirement system benefits are calculated based on three factors: 1) a percentage factor; 2) years of service; and 3) average final compensation (AFC). For example, the formula for calculating retirement benefits under Plan 2 of the Public Employees' Retirement System is:

$$2\% \times \text{years of service} \times \text{AFC} = \text{annual retirement benefit.}$$

Federal tax laws establish requirements for becoming a "qualified retirement trust fund." In the early 1980's, the state's retirement systems became "qualified trusts" under these requirements, allowing two major federal tax benefits: 1) the systems do not have to pay taxes on employer contributions; and 2) member contributions can be made with pre-tax income. To continue as a qualified trust, the state retirement systems must comply with federal tax laws.

The federal tax laws place a ceiling on the amount of compensation used in calculating benefits. Until 1993, that ceiling was \$235,840 per year; in 1993 the limit was lowered to \$150,000, indexed to inflation. This limit applies to public systems beginning January 1, 1996.

Summary: The maximum annual compensation used to calculate state retirement benefits may not exceed the limits under the federal Internal Revenue Code for qualified trusts. This brings the state retirement systems into compliance with the \$150,000 federal limit that applies to public systems beginning January 1, 1996. (Under federal law, the limit applies only to members hired after January 1, 1996; there is no impact on members hired before January 1, 1996.)

Votes on Final Passage:

House 96 0
 Senate 47 0

Effective: July 23, 1995

ESHB 1298

C 321 L 95

Enlarging the scope of the methadone treatment program to the opiate substitution treatment program.

By House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Tokuda

EHB 1305

and Patterson; by request of Department of Social and Health Services).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: Programs providing methadone treatment services must be certified by the Department of Social and Health Services. County legislative authorities are authorized to prohibit methadone treatment in their county. Methadone treatment programs do not have statutory authority to provide opiate substitutes other than methadone for individuals addicted to opiates.

Summary: A definition of "opiate substitute treatment" is provided. It includes dispensing approved drugs and providing a comprehensive array of medical and rehabilitative services. Goals related to the use of opiate substitutes are included. Opiate substitution programs are required to submit annual reports to the county and Department of Social and Health Services to be analyzed and evaluated. The Department of Social and Health Services will submit an annual report to the Legislature related to their analysis of opiate substitution programs.

Votes on Final Passage:

House	81	14	
Senate	48	0	(Senate amended)
House	87	10	(House concurred)

Effective: July 23, 1995

EHB 1305

PARTIAL VETO

C 400 L 95

Revising restrictions on growth outside of urban growth areas.

By Representatives Johnson, Sheldon, Reams, Mastin, L. Thomas and Basich.

House Committee on Government Operations
Senate Committee on Government Operations

Background: The Growth Management Act (GMA) was enacted in 1990 and 1991, establishing a variety of requirements for counties and cities. A few requirements are established for all counties and cities, and additional requirements are established for those counties and cities that are required to plan under all GMA requirements.

Two sets of populations and growth factors are established to determine whether a county, and the cities within such a county, are required to plan under all GMA requirements.

Each county planning under all GMA requirements, in cooperation with the cities located within its boundaries, develops a countywide planning policy to guide the comprehensive plans that the county and those cities develop. Counties are recognized as being regional governments.

Cities are recognized as the primary providers of urban government services within urban growth areas.

Among other requirements, a county planning under all GMA requirements must designate urban growth areas within the county inside of which urban growth shall occur and outside of which urban growth shall not occur. Every city must be included within an urban growth area. Other areas may be included in an urban growth area if they are already characterized by urban growth or are adjacent to such areas. The county uses a 20-year population forecast prepared by the Office of Financial Management as the basis for designating its urban growth areas.

A county planning under all GMA requirements must adopt a comprehensive plan with a rural element that includes lands not located within an urban growth area and which have not been designated for agriculture, forest, or mineral resources. The rural element must permit land uses compatible with the rural character of these lands and must provide for a variety of densities.

Every county and city in the state is required to designate agricultural lands with long-term commercial significance for agriculture, forest lands with long-term commercial production of timber, and mineral resource lands with long-term significance for mineral extraction. Counties and cities planning under all GMA requirements are required to adopt development regulations assuring the protection of each of these types of designated lands.

Three separate growth management hearings boards, covering different geographic areas, are established to hear appeals on challenges that actions of counties and cities are not in compliance with the GMA.

Summary: Factors determining if a county is required to plan under all GMA requirements. The growth factor is altered that determines whether a county with a population of 50,000 or more is required to plan under all GMA requirements. Such a county must have increased its population by 17 percent or more during the last 10 years, rather than 10 percent or more. This change is prospective only and does not apply to counties already planning under all GMA requirements.

Urban growth areas. It is clarified that a county planning under all GMA requirements may designate urban growth areas that do not include a city. It is clarified that a new fully contained community is an urban growth area.

An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. Local circumstances may be considered when determining this market factor. Discretion exists for many choices to be made in comprehensive plans to accommodate growth.

Language is altered that describes general preferences for locating urban growth within urban growth areas. A third general preference is added covering the remainder of the urban growth areas not described by the first two preferences. Urban growth may be located within a designated new fully contained community.

Language is altered that describes the provision of urban services by local governments. In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate for urban governmental services to be extended or expanded in rural areas except where necessary to protect basic public health and safety and the environment, the services are financially supportable at rural densities, and the services do not permit urban development.

Rural element. It is clarified that the rural element in a comprehensive plan of a county planning under all GMA requirements may allow clustering and other innovative techniques to accommodate appropriate rural uses not characterized by urban growth.

Mineral resource lands. Counties and cities are required to designate sufficient mineral resource lands for minerals other than metals that at least meet the 20-year projected countywide need and are required to discourage the siting of incompatible land uses adjacent to mineral resource industries, deposits, and holdings.

Retroactive application. The changes made in this act apply to comprehensive plans that are subject to appeals pending before a growth management hearings board on the effective date of this act. An additional ninety days is provided for a board to continue its review of such comprehensive plans. By mutual agreement of all parties to such an appeal, this additional ninety day period may be extended.

Votes on Final Passage:

House	71	24	
Senate	35	13	(Senate amended)
House	85	10	(House concurred)

Effective: May 16, 1995

Partial Veto Summary: The section was vetoed that established new requirements for designating mineral resource lands for minerals other than metals to meet the 20-year projected countywide needs.

VETO MESSAGE ON HB 1305

May 16, 1995

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 House Bill No. 1305 entitled:

“AN ACT Relating to growth management;”

Many of the provisions of Engrossed House Bill No. 1305 are the product of long and difficult negotiations between affected parties. I am impressed with these efforts to resolve a range of problems that have developed since the implementation of the Growth Management Act (GMA).

The GMA is an important foundation for land use planning in the state. It is appropriate that the legislature fine-tune the GMA to solve practical problems that develop as local communities work to implement important guidelines.

Engrossed House Bill No. 1305 restates a key principle: local governments have broad discretion and a wide variety of choices to make in implementing growth management. However, local

discretion is not unlimited. Local governments must also address statewide planning goals and provisions.

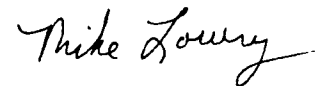
Section 5 of this bill presents difficult problems. This provision responds to the growing shortage of sand and gravel and to land use conflicts over surface mining. While I am mindful of the need for local governments to make hard choices up front when siting needed facilities, the language in this provision takes too much authority from local governments. Most importantly, section 5 stands to impair the ability of local governments to determine whether or not to permit mining facilities and to impair the authority of local governments to condition those permits.

This issue will continue to be a legislative and a court concern until local governments and the industry again work to negotiate their differences either on a statewide or regional basis. I strongly encourage local governments and industry representatives to resolve their differences in order to meet the need for additional facilities without encroaching on the land use authority of local governments.

For these reasons, I have vetoed section 5 of Engrossed House Bill No. 1305.

With the exception of section 5, Engrossed House Bill No. 1305 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 1310

C 174 L 95

Strengthening the provisions of the pilotage act affecting marine safety and protection of the marine environment.

By Representatives K. Schmidt, R. Fisher and Buck; by request of Board of Pilotage Commissioners.

House Committee on Transportation
Senate Committee on Transportation

Background: Pilots are responsible for the navigation of U.S. and foreign flag vessels in Puget Sound and Grays Harbor.

The Board of Pilotage Commissioners' (BPC) primary functions relate to pilot licensing and regulation. The BPC is responsible for the administration of pilot qualifications and performance standards, training and education requirements; setting pilotage tariffs; and monitoring the pilot and shipping industry to ensure adherence to the Pilotage Act.

When not detrimental to the public interest, an interested party may petition the BPC to exempt certain small passenger vessels or yachts (i.e., vessels not more than 500 gross tons and not more than 200 feet in length) operating exclusively in the waters of the Puget Sound pilotage district and lower British Columbia from Pilotage Act requirements. Exemptions granted must be reviewed by the BPC at least annually.

The maximum civil penalty for violation of the Pilotage Act is \$5,000.

HB 1311

Summary: Applicants for exemption from the Pilotage Act must pay a fee, payable to the pilotage account, for initial applications and renewals in an amount to be established by rule, but not to exceed \$1,500.

The maximum civil penalty for violations of the Pilotage Act is \$10,000 for each violation.

Votes on Final Passage:

House	98	0
Senate	47	1

Effective: July 23, 1995

HB 1311

C 175 L 95

Providing for enforcement and administration of the pilotage act.

By Representatives K. Schmidt, R. Fisher and Blanton; by request of Board of Pilotage Commissioners.

House Committee on Transportation
Senate Committee on Transportation

Background: Pilots are responsible for the navigation of U.S. and foreign flag vessels in Puget Sound and Grays Harbor.

The Board of Pilotage Commissioners' (BPC) primary functions relate to pilot licensing and regulation. The BPC is responsible for the administration of pilot qualification and performance standards, training and educational requirements; setting pilotage tariffs; and monitoring the pilot and shipping industry to ensure adherence to the Pilotage Act.

In order to pilot a vessel in Puget Sound or Grays Harbor, one must hold a pilot's license. Pilot licenses are valid for five years. An annual license fee, not to exceed \$1,500, is established by the BPC.

During the past several years, expenditures have exceeded the incoming revenue which is derived entirely from annual pilot license fees. Account reserves have been depleted; and revenues, at the statutory maximum of \$1500 per license for the 1995-97 biennium, will not provide adequate funding for required BPC functions.

Summary: For the period beginning July 1, 1995, through June 30, 1999, the annual license fee for pilots established by the Board of Pilotage Commissioners will be \$2,500. For the period beginning July 1, 1999, the fee will be \$3,000.

Votes on Final Passage:

House	98	0
Senate	47	1

Effective: July 1, 1995

3ESHB 1317

C 19 L 95 E2

Revising the selection process for transportation systems and facilities demonstration projects.

By House Committee on Transportation (originally sponsored by Representatives Robertson, Cairnes, B. Thomas, Mitchell, Van Luven, Dyer, Lambert, Radcliff, D. Schmidt, Backlund, Cooke, Reams, Campbell, Stevens, L. Thomas and Koster).

House Committee on Transportation
Senate Committee on Transportation

Background: New Partners: Public-Private Initiatives in Transportation (Chapter 47.46 RCW) is a program created by the 1993 Legislature to test the feasibility of privately financed transportation improvements in Washington State. The law 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 state Department of Transportation (DOT) is authorized to solicit proposals from the private sector and to select up to six demonstration projects identified by the private sector. Projects are owned by the private sector during construction, turned over to the state, and leased back for operation for up to 50 years. The private developer is authorized to impose tolls or user fees to recover its investment and allow a reasonable rate of return on investment.

In early fall of 1994, the DOT and the six private consortia selected for the New Partners Program began negotiating agreements to develop transportation facilities that include park & ride lot expansion, congestion pricing in the Puget Sound corridor, and corridor improvement on State Routes 16, 18, 520, and 522. These agreements identify the responsibilities and commitments of each party and will drive project development activities.

Public opposition to the process employed to select the demonstration projects, concern about the degree and quality of public involvement in the project development stage, and opposition to the proposed imposition by the private sector of tolls or user fees on these facilities led the DOT to terminate further consideration of the proposal on the SR 18 corridor improvements. These same concerns also threaten the viability of the remaining five projects.

Summary: The legislative intent section of the Public-Private Initiatives in Transportation act is amended to clarify the purpose and parameters of agreements between the DOT and private entities. The program must be implemented with the support of affected communities and local jurisdictions.

The DOT is prohibited from implementing the Puget Sound Congestion Pricing Project until the Legislature reviews the social and economic impacts of the project and gives its approval.

A two-year moratorium (ending June 30, 1997) on the selection of additional projects, if any of the remaining four projects are terminated, is imposed. The DOT is required to conduct a program and fiscal audit within the two-year period.

The DOT must develop and submit to the 1997 Legislature, a public involvement plan for identifying new projects and must receive legislative approval of the plan before it can proceed with the identification and selection of new projects.

Prior to entering into agreements with private entities, the DOT must conduct an advisory vote, in a general or special election, on the imposition of tolls or user fees to implement a selected proposed project. Prior to the vote, the DOT is required to define the geographical area in which the vote occurs and establish Local Involvement Committees comprised of city and county elected officials, users, and representatives of organizations formed to oppose or support the selected proposed project. Local Involvement Committees are required to review the affected project area as defined by the department and assist the DOT in developing the project description for the ballot proposition. The DOT is required to provide the Legislative Transportation Committee with progress reports on the status of the definition of the affected project area and the description of the project proposal. An exemption from the advisory vote requirement is created for selected project proposals, both existing and future, that have no organized public opposition.

Agreements between the private sector and the DOT must include a public involvement process in the project development phase. Private entities must define the affected project area where public involvement will occur and seek public participation through a comprehensive process that allows users and residents in the affected project area to comment on such key issues as project alternative sizes and scopes, traffic impacts, tolling strategies and ranges, and environmental assessment. The private sector also is required to establish local involvement committees that will act in an advisory capacity on all issues related to the implementation of the public involvement process. Agreements may require an advisory vote by users and residents in the affected project area.

The agreements must also require the following: (1) that police services on public-private initiatives projects be with the Washington State Patrol; (2) that tolls and user fees only be used to pay the private entities capital outlay cost, including project development, design and construction costs; and (3) that there be no extension of tolls or users fees by DOT after the expiration of the franchise agreement.

The negotiation of excess toll revenues and user fees is prohibited.

Votes on Final Passage:

House	86	11	
Senate	42	5	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House			(House refused to concur)

First Special Session

House	79	12	
House	67	21	(House reconsidered)
Senate	37	11	(Senate amended)

Second Special Session

House	71	22	
Senate	33	12	

Effective: June 16, 1995

2SHB 1318

C 5 L 95 E1

Revising provisions for the Washington scholars program.

By House Committee on Appropriations (originally sponsored by Representatives Carlson, Mulliken and Mastin; by request of Higher Education Coordinating Board).

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

Background: The Washington Scholars Program was created by the Legislature in 1981. The program annually honors three graduating high school seniors in each legislative district. Scholars who are selected have distinguished themselves through scholastic achievement, leadership ability and contributions to their communities.

In 1984, the Legislature began providing Washington scholars attending public colleges and universities with a mandatory waiver of tuition and services and activities fees for undergraduate studies. In order to receive the waiver, students must enter the public institution within three years of high school graduation. Under current law, students who received the award before June 30, 1994, will continue to receive total waivers of tuition and fees. Institutions of higher education have the option of providing full, partial, or no waivers to students who receive the award after that date.

In 1988, the Legislature created a comparable scholarship program for Washington scholars who attend in-state independent colleges and universities. If funds are available, these scholars may receive a grant of up to the amount of tuition and services and activities fees at the research universities. The grant is contingent upon an equal matching grant by the independent institution. Funding for the scholarship has never been increased to keep pace with tuition and fee increases at the research universi-

HB 1321

ties. During the 1994-95 academic year, Washington scholars attending independent institutions receive about \$1,872, while scholars attending the University of Washington receive \$2,907.

Summary: With the exception of technical colleges, public colleges and universities are required to waive tuition and services and activities fees for Washington scholars selected before June 30, 1994. The waiver must be used for undergraduate studies. Students selected after that date will not receive a waiver.

Scholars selected after June 30, 1994, will receive a grant, if funds are available. The amount of the grant cannot exceed tuition and fees at the public research universities. The grant must be used for undergraduate studies. The students may use the grant to attend either a public or independent college or university within the state. Independent institutions must continue to provide an equal matching grant to recipients attending their institutions. Scholars may transfer among in-state colleges and universities and continue to receive the grant. The grants for Washington scholars will be administered by the Higher Education Coordinating Board.

Votes on Final Passage:

House 97 0

First Special Session

House 92 0

Senate 43 0

Effective: July 1, 1995

HB 1321

C 176 L 95

Correcting citations to the tuition recovery trust fund.

By Representatives Mulliken, Mason, Goldsmith and Carlson; by request of Higher Education Coordinating Board.

House Committee on Higher Education
Senate Committee on Higher Education

Background: In 1986, the Legislature enacted provisions regulating private vocational schools. The act was intended to assist students in evaluating private vocational school programs and obtaining refunds in the event of their withdrawal or school cancellation or closure. In 1987, the Legislature authorized establishment of a tuition recovery fund for the benefit and protection of students of private non-degree-granting vocational schools.

In 1994, the Legislature created a separate account within the tuition recovery fund to cover degree granting private vocational schools. The 1994 law cites the wrong statute in referring to the tuition recovery fund.

Summary: The incorrect statutory reference in current law is corrected.

Votes on Final Passage:

House 96 0

Senate 48 0

Effective: May 1, 1995

SHB 1336

C 310 L 95

Requiring institutions of higher education to report on precollege class enrollments.

By House Committee on Higher Education (originally sponsored by Representatives Jacobsen, Carlson, Mastin and Basich).

House Committee on Higher Education
Senate Committee on Higher Education

Background: According to a national survey of colleges and universities released by the National Center for Educational Statistics, 30 percent of college freshmen took at least one remedial or precollege course in the fall of 1989.

Community Colleges: During the 1993-94 academic year, 18,027 full time equivalent (FTE) students were enrolled in precollege classes in community and technical colleges. The system expended about \$55,660,000 in state general fund monies and student operating fees on the classes. About 2,243 of those FTE students, or 12 percent, had received a high school diploma within the previous three years. Most of the recent high school graduates were enrolled in English (36 percent) or math (51 percent). However, 4 percent of the recent high school graduates were enrolled in Adult Basic Education (ABE) classes. ABE classes are designed to bring students to an eighth grade level. Eight percent of the recent graduates were enrolled in English as a Second Language (ESL) classes.

Regional Institutions: During the 1993-94 academic year, 621 students at Central Washington University were enrolled in state supported precollege classes or laboratories in English, writing, spelling, reading, and mathematics. These students comprised 124 FTEs. During that academic year, the cost of providing these classes was about \$169,000 in state general fund and student operating fee dollars. At Eastern Washington University, 1,121 students were enrolled in precollege classes during the 1993-94 academic year. These students constituted 115 FTEs. The cost of providing the classes was estimated to be \$102,516. Sixty-three students at Western Washington University were enrolled in state supported precollege classes that same year. These students generated 21 FTEs. The cost of serving these students was estimated to be \$7,971 in state general fund monies and student operating fees.

The Evergreen State College does not offer state supported precollege classes.

Research Universities: State supported precollege classes at the University of Washington (UW) are restricted to participants in the Educational Opportunity Program for disadvantaged students. During the 1993-94 academic year, 379 students were enrolled in precollege mathematics and English classes. These students constituted 188 FTEs. The university expended \$294,330 on these classes. Other UW students may take precollege classes offered by Seattle community colleges or through university extension programs. Any extension classes are self supporting.

During the 1993-94 academic year, at Washington State University, 231 students were enrolled in precollege classes. These students generated 46 FTEs. Most of the students were enrolled in precollege mathematics. The remaining 18 were enrolled in an ESL class. The university expended \$24,350 on these classes in the 1993-94 academic year.

Summary: By June 30, 1996, in consultation with representatives of the common schools and institutions of higher education, the Higher Education Coordinating Board will adopt common definitions of remedial and precollege material and coursework. Those definitions will be adopted by public colleges and universities.

Beginning in 1997, by September 30 of each year, each state baccalaureate university and college, and the State Board for Community and Technical Colleges will provide a report on precollege class enrollment to the Superintendent of Public Instruction, the State Board of Education and the Commission on Student Learning.

The report will contain three elements on students who, within three years of graduating from a Washington high school, enrolled in a state supported precollege class. These elements are: the numbers of students enrolled in the listed precollege classes; the types of classes in which each student was enrolled; and the name of the Washington high school from which each student graduated.

Each college and university will report on precollege class enrollment to certain Washington high schools. The report will be given to Washington high schools that, within the previous three years, graduated a person who then enrolled in a state-supported precollege class at a state college or university. The report will include the number of students who, within three years of graduating from that high school, enrolled in a precollege class and the types of classes taken by each student.

Votes on Final Passage:

House	92	0	
Senate	40	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995

SHB 1342

C 211 L 95

Creating the parks renewal and stewardship account.

By House Committee on Appropriations (originally sponsored by Representatives Fuhrman, Buck, Sehlin, Romero, Ogden, Regala, Jacobsen and Basich; by request of Parks and Recreation Commission).

House Committee on Natural Resources
House Committee on Appropriations
Senate Committee on Ecology & Parks
Senate Committee on Ways & Means

Background: In 1971 the Legislature created the Trust Land Acquisition Program. This program authorized the State Parks and Recreation Commission to purchase trust lands which are suitable for park purposes from the Department of Natural Resources. There are 50 trust land parcels identified in statute as suitable for these purchases. All but one of the parcels identified in statute have been purchased by the State Parks and Recreation Commission for inclusion in the parks system. Currently, the Board of Natural Resources negotiates the terms of the sale with the Parks Commission.

The 1971 legislation also established the trust land purchase account. Originally, all monies from park concessions and user fees were deposited into this account and used to assist the Parks Commission in purchasing trust lands identified for addition to the parks system. In recent years, this account has been increasingly used to fund park operations.

The 1994 supplemental operating budget directed the Parks Commission to study options for increasing the involvement of non-governmental organizations in the acquisition, development, and operation of the state parks system. The Office of Financial Management also directed the Parks Commission to review the way its programs are funded and to recommend appropriate alternatives. The commission's study made a number of recommendations, including establishing a dedicated, non-appropriated account into which park user fees would be deposited for park operations and maintenance. This recommendation has been introduced to the Legislature as HB 1342.

The Parks Commission is authorized to sell timber from State Parks if the timber is surplus to the needs of the park. State law defines the manner by which trees on park lands are managed and removed.

Summary: The trust land purchase account is eliminated and the parks renewal and stewardship account is created. All State Park revenue, including user fees, leases, and concession receipts, are deposited into the renewal and stewardship account. Revenues from the account may be used for capital improvements, stewardship activities, or for other activities as determined by the Parks

HB 1343

Commission. The account is subject to allotment procedures and to legislative appropriation.

Revenue from surplus timber sales on state park land is to be deposited into the renewal and stewardship account.

The Department of Natural Resources and State Parks are granted general authority to negotiate the sale of trust lands to the Parks Commission at fair market value.

The names and descriptions of previously purchased trust land parcels are removed from the statute. Various changes are made in provisions dealing with the park land trust revolving fund. Disbursements from the fund may be made by authorization of the Department of Natural Resources, rather than the Board of Natural Resources.

Votes on Final Passage:

House	97	0	
Senate	43	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 1, 1995

HB 1343

C 146 L 95

Removing the requirement that a schedule of port rates and charges be filed with the utilities and transportation commission.

By Representatives Casada, Kessler and Basich; by request of Utilities & Transportation Commission.

House Committee on Energy & Utilities
House Committee on Transportation
Senate Committee on Transportation

Background: Since 1955, Washington's port districts have been required to file a schedule of their rates for port activities (wharfage, dockage, warehousing, and port and terminal charges) with the Washington Utilities and Transportation Commission (WUTC). However, the WUTC has no authority to act upon a rate imposed by a port district. The port's tariffs, generally several pages in length, are simply filed with the WUTC and made available for public viewing.

The WUTC reports that no one has asked to see the tariffs in several years.

Summary: The requirement that a port district file a schedule of its rates and charges with the WUTC is removed.

Votes on Final Passage:

House	95	0	
Senate	48	0	

Effective: July 23, 1995

SHB 1348

C 238 L 95

Regulating escrow agents.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Cole, Fuhrman and Wolfe; by request of Department of Licensing).

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

Background: Escrow agents close real property transactions, acting as neutral third parties to effectuate the sale or transfer of real property between buyers and sellers. Escrow agents are certified by the Department of Licensing. An escrow agent must be supervised by an escrow officer, who is licensed by the Department of Licensing. An escrow agent must comply with other statutory requirements, such as obtaining a fidelity bond and an errors and omissions policy.

The Escrow Commission, comprised of the director of the Department of Licensing and five members from the escrow industry appointed by the Governor, advises the Department of Licensing regarding the needs and regulation of the escrow profession.

Summary: Regulation of escrow agents and officers is transferred from the Department of Licensing to the Department of Financial Institutions. The director of the Department of Financial Institutions, rather than the Governor, appoints the industry representatives of the Escrow Commission.

The Department of Financial Institutions' Banking Examination Fund includes fees received for examination and regulation of escrow agents.

Votes on Final Passage

House	98	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 1995

SHB 1350

C 322 L 95

Authorizing voluntary contributions for unemployment insurance.

By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Chandler and Veloria; by request of Joint Task Force on Unemployment Insurance).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: Washington's unemployment insurance system requires each covered employer to pay

contributions that are a percentage of his or her taxable payroll. These contributions are held in trust to pay benefits to unemployed workers. A qualified employer's contribution rate is determined by the statutory tax schedule in effect and by the employer's tax rate class within that tax schedule.

To determine a qualified employer's tax rate class, the Employment Security Department first computes each employer's benefit ratio. The benefit ratio is the ratio of the benefit charges made against the employer's experience rating account in the last four fiscal years of the employer's experience divided by the employer's taxable payroll. All of the employers are then listed in an array from lowest to highest benefit ratio. The array of employers is divided into 20 classes, using the first 5 percent of taxable wages of the employers with the lowest benefit ratios to identify employers in rate class one, and continuing through the array until each class contains employers with approximately 5 percent of total taxable payroll.

The Joint Task Force on Unemployment Insurance reviewed the impact that this experience rating system had on small employers and recommended that employers should be permitted to make voluntary contributions to reduce their experience rate. The task force draft report notes that "[c]ontribution rates for smaller employers rise more severely after a layoff because of the relative size of the layoff compared to the total workforce of the employer. For example, an employer with five employees who lays off one employee will have a 20 percent workforce reduction. An employer of 150 employees must lay off 30 employees to experience the same rate impact."

Summary: Beginning in tax rate year 1996, the unemployment insurance program is modified to permit the payment of voluntary contributions so that an employer may obtain a reduction in his or her scheduled contribution rate. Voluntary contributions may be made only by qualified employers who had an increase of at least six tax rate classes from the previous tax rate year.

For voluntary contributions to be used for rate reductions, the contributions must be received by the Employment Security Department by February 15 after the employer receives notice of his or her scheduled contribution rate. The amount of the voluntary contributions may equal all or part of the benefits charged to the employer's experience rating account in the most recently completed two years used for rating purposes. The amount must also include a surcharge of 10 percent of the amount of the contribution.

If voluntary contributions are timely paid, the department will reduce the charges against the employer's experience rating account by the amount of the voluntary contributions, excluding the surcharge. The employer's benefit ratio will be recomputed and the employer will be assigned a new contribution rate based on the new benefit ratio. The minimum amount of a voluntary contribution

must be an amount that results in reducing the employer's tax rate class by at least two classes.

Votes on Final Passage:

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

Effective: July 23, 1995

HB 1359

C 278 L 95

Affecting the administration and collection of the cigarette tax.

By Representatives Van Luven and G. Fisher; by request of Department of Revenue.

House Committee on Finance
Senate Committee on Ways & Means

Background: Cigarette and tobacco products taxes are added directly to the price of these goods before the sales tax is applied. The current rate for the cigarette tax is 56.5 cents per pack of 20 cigarettes. On July 1, 1995, the rate will increase to 81.5 cents, and to 82.5 cents on July 1, 1996. The rate for tobacco products, other than cigarettes, is 74.9 percent of the wholesale price. There are no future rate increases scheduled for tobacco products.

Revenue from the first 23 cents of the cigarette tax goes to the general fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the general fund thereafter. The next 22.5 cents (40 cents beginning July 1, 1995, and 41 cents beginning July 1, 1996) go to the health services account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement. For tobacco products tax revenues, 64.29 percent goes to the general fund, 13.35 percent to the health services account, and the remaining 22.36 percent is dedicated to water quality improvement programs through June 30, 2021, and to the general fund thereafter.

The cigarette tax is due from the first person who sells, uses, consumes, handles, possesses or distributes the cigarettes in this state. Payment is made through the purchase of stamps from banks authorized by the Department of Revenue to sell the stamps. Stamps must be affixed to cigarette packages before any sale, use, consumption, handling, possession or distribution. Unstamped cigarettes are subject to seizure as contraband. Selling cigarettes without a required stamp is a gross misdemeanor. Violations of the cigarette tax laws are also subject to penalties of \$10 per pack, \$250 minimum. Cigarette wholesalers and retailers must keep records of cigarette transactions for five years.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by a tribal cigarette outlet to nontribal members are

HB 1360

subject to the tax. The Department of Revenue requires tribal vendors to obtain advance approval from the department before bringing unstamped cigarettes into the state for sale to tribal members. Approval is limited to a quantity reasonably related to the probable demand of qualified purchasers in the trade territory of the vendor.

Federal law also prohibits the transportation or possession of unstamped cigarettes in violation of state law. An extended investigation by the federal Bureau of Alcohol, Tobacco, and Firearms resulted in a series of cigarette seizures in Washington in October and November of 1991. Four Indian retailers were charged with transportation and possession of unstamped cigarettes without obtaining advance approval from the department. A federal District Court dismissed the indictments, holding that Washington law does not prohibit an Indian retailer from acquiring cigarettes from an out-of-state source and holding them without stamps, and without Department of Revenue approval, until sold to non-Indians.

Summary: The definition of "stamp" for the cigarette tax is expanded to include stamps which show tax-exempt status. All cigarettes in Washington must bear either a tax stamp or an exempt stamp. A person may import unstamped cigarettes into this state only after notifying the Department of Revenue in advance. Persons transporting unstamped cigarettes into this state must have documentation for shipments in their possession during transport. Unstamped cigarettes must be stamped within a reasonable period after being brought into the state, as provided in rules of the department.

A person who is exempt from cigarette tax, such as an Indian retailer, is nonetheless subject to a "precollection obligation." Under this obligation, the exempt person must prepay the cigarette tax to the state for cigarettes that the person intends to sell to non-exempt persons. The prepayment must be made at the time tax would ordinarily be due if the cigarettes were possessed by a non-exempt person.

The records kept by cigarette wholesalers and retailers for five years must include physical inventories of cigarettes.

A wholesaler selling to a retailer who does not possess a current cigarette retailer's license is guilty of a gross misdemeanor. Penalties for violation of cigarette tax laws are classified as remedial rather than punitive. The time period for paying cigarette tax assessments and penalties is increased from 10 days to 30 days.

Cigarettes that are given away for advertising or other purposes are not required to have stamps. Instead, the manufacturer must pay the tax on a monthly return, in the manner generally applicable to other major state excise taxes. Packages of these cigarettes must be marked "Complimentary, not for sale, all applicable state taxes paid by manufacturer."

When tax increases are enacted that affect existing inventories, the additional taxes must be paid with a return

filed with the Department of Revenue by the last day of the month in which the increase becomes effective.

The Department of Revenue is authorized to adopt rules as necessary to enforce the cigarette tax laws.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	44	0	(Senate receded)

Effective: July 1, 1995

HB 1360

C 64 L 95

Addressing discriminatory practices against osteopathic physicians and surgeons.

By Representatives Dyer, Dellwo, Backlund and Cody.

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

Background: Osteopathic doctors are licensed under the Board of Osteopathic Medicine and Surgery to practice osteopathic medicine and surgery in this state. The tenets of osteopathy emphasize the musculo-skeletal structure of the body, and include medical treatment as well as osteopathic manipulative therapy.

Cases of discrimination have occurred against osteopathic doctors in this state with regard to practice and training privileges.

Summary: Health maintenance organizations, professional service corporations, and hospitals are prohibited from discriminating against doctors of osteopathic medicine solely because they have been board certified or are eligible under an approved osteopathic certifying board.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: July 23, 1995

HB 1362

C 177 L 95

Providing for retrocession of criminal jurisdiction by the Muckleshoot Tribe.

By Representatives Robertson, L. Thomas and Sheldon.

House Committee on Law & Justice
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. Retrocession affects only crimes committed by Indians on tribal lands.

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. Once the Legislature authorizes retrocession, the affected tribe must send the Governor a resolution requesting retrocession. If the Governor decides to authorize retrocession, he or she must do so by issuing a proclamation within 90 days of receipt of the tribal resolution. Once the federal government accepts the proclamation, retrocession is effective.

Over the past nine years, five 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, Skokomish, 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 Muckleshoot Tribe and the federal government. The retrocession applies only to crimes committed by Indians on tribal lands.

The Muckleshoot 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	97	0
Senate	45	0

Effective: July 23, 1995

SHB 1383

C 279 L 95

Clarifying annexation authority by municipal corporations providing sewer or water service of unincorporated territory.

By House Committee on Government Operations (originally sponsored by Representatives Reams, Scott, Rust and Hargrove).

House Committee on Government Operations
Senate Committee on Government Operations

Background: When unincorporated territory consisting of less than 100 acres is at least 80 percent contiguous with the boundaries of two sewer districts, two water districts, or a water district and a sewer district, the board of commissioners of one of the districts may resolve to annex the territory if the other district's board of commissioners concurs.

Cities and towns may also provide sewer or water service. There is no authority for a sewer district or water district to annex this territory even if the city or town whose boundaries are contiguous with the unincorporated territory concurs in the annexation. Similarly, there is no authority for a city or town to annex this territory even if the sewer district or water district concurs in the annexation.

Summary: When unincorporated territory consisting of less than 100 acres is at least 80 percent contiguous with the boundaries of two municipal corporations, and one of the municipal corporations is either a sewer district or a water district, the legislative authority of one of the municipal corporations may resolve to annex the territory if the legislative authority of the other municipal corporation concurs in the annexation.

A municipal corporation is defined as a city, town, water district, or sewer district.

Votes on Final Passage:

House	96	0	
Senate	44	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

SHB 1387

PARTIAL VETO

C 353 L 95

Revoking the license of a massage practitioner who has been convicted of prostitution.

By House Committee on Law & Justice (originally sponsored by Representatives Delvin, Dellwo, Carrell, Cody, Morris, Padden, Hickel, Sommers, Conway, Brown, Mason, B. Thomas, Dickerson, Boldt, Campbell, Carlson,

Patterson, Kessler, Mielke, Mulliken, Honeyford, Hargrove, L. Thomas, Kremen, Scott and Huff).

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

Background: Persons operating a massage or massage therapy business are regulated under state law and local ordinances. Any person operating a massage business in the state must obtain a license from the Department of Health. In order to qualify for a license, a person must be 18 years of age or older, successfully complete an approved course of study, and pass an approved examination.

Massage practitioners are subject to discipline under the Health Profession Uniform Disciplinary Act. Under this act, the license of a massage practitioner may be restricted, suspended, or revoked, after a hearing, upon a finding that the massage practitioner engaged in unprofessional conduct. Unprofessional conduct includes the commission of any act involving moral turpitude. An act of moral turpitude is an act involving baseness, vileness, or depravity which violates commonly accepted standards of good morals. Washington courts have held that prostitution related offenses are crimes of moral turpitude.

State law specifically provides that local jurisdictions may require additional registrations or licenses and charge additional fees for the local licensing of massage practitioners. However, a county, city, or town may not subject a state licensed massage practitioner to additional licensing requirements that are not imposed on similar health care providers, such as physical therapists or occupational therapists. In addition, a county, city, or town may not charge a state licensed massage practitioner a licensing or operation fee that exceeds licensing or operation fees imposed on similar health care providers.

Summary: It is unlawful to advertise the practice of massage without printing in a display advertisement the license number of the massage practitioner.

The massage license of any person convicted of violating the state or local offense of prostitution, promoting prostitution, or permitting prostitution must be automatically revoked by the Secretary of the Department of Health upon receipt of a certified copy of the court documents reflecting such conviction. The license shall be reinstated upon the completion of a prostitution prevention and intervention program. A license may not be granted to any person convicted of a prostitution related offense for a period of eight years after the conviction, unless the applicant demonstrates that he or she has completed a prostitute prevention and intervention program.

A grant program is established in the Department of Community, Trade and Economic Development to enhance funding for prostitution prevention and intervention services, such as counseling, parenting, and education. Various organizations may apply to the department for a grant in order to provide prostitution prevention and intervention

services. Funding for the grant program is provided through fees established and assessed against persons convicted of certain state or local prostitution-related crimes, through private donations, and through legislative appropriations.

The following fees are established for persons convicted of prostitution-related crimes: \$250 for patronizing a juvenile prostitute; \$50 for indecent exposure, prostitution, or permitting prostitution; \$150 for patronizing a prostitute; and \$300 for promoting prostitution. These fees are to be deposited into the prostitution prevention and intervention account created in the state treasury. Expenditures from the account may be used only for funding the grant program to enhance prostitution prevention and intervention services.

Provisions limiting the ability of counties, cities, and towns to impose more onerous license fees and requirements than those imposed on other health care providers are amended to provide that a county, city, or town may impose additional licensing requirements on a state licensed massage practitioner and may not charge a state licensed massage practitioner a fee in excess of fees imposed on other licensees. License fees imposed by counties, cities, and towns must be reasonable and shall not exceed the costs of the processing and administration of the licensing procedure. The amendments to these provisions relating to local license fees and restrictions are effective for two years.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	81	15	(House concurred)

Effective: July 23, 1995

Partial Veto Summary: The amendments limiting the ability of counties, cities and towns to impose more onerous license fees and allowing counties, cities, and towns to impose additional licensing requirements on state licensed massage practitioners are removed.

VETO MESSAGE ON HB 1387-S

May 16, 1995

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, and 6, Substitute House Bill No. 1387 entitled:

“AN ACT Relating to massage practitioners;”

Substitute House Bill No. 1387 establishes stiff penalties for massage practitioners engaged in prostitution and will enable local law enforcement and the state to crack down on abuses.

Sections 4, 5, and 6 would prohibit cities and counties from imposing a higher business license on massage therapists than on other business professionals. Although I support this objective, these sections also restrict local governments utilizing professional licensing from raising revenue above the cost of administration of the licensing function. Eliminating this revenue source would result in a significant loss of revenue needed to defray on-going related costs borne by cities and counties.

For this reason, I am vetoing sections 4, 5, and 6 of Substitute House Bill No. 1387.

With the exception of sections 4, 5, and 6, Substitute House Bill No. 1387 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 1389

C 178 L 95

Concerning the supervision of apprentice opticians.

By House Committee on Health Care (originally sponsored by Representatives Dyer and Morris).

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

Background: Apprentice opticians receive training and direct supervision in an optician's practice, and may be supervised by either a physician ophthalmologist, an optometrist, or a dispensing optician.

An apprentice may have only one designated supervisor, and in the absence of that supervisor cannot continue training.

Summary: An apprentice optician is required to have a primary supervisor who is responsible for the majority of the work and direct supervision of the apprentice in the apprenticeship program. But in the absence of the primary supervisor, the apprentice may be supervised by another qualified supervisor without any interruption in the apprenticeship program.

Votes on Final Passage:

House	98	0
Senate	40	0

Effective: July 23, 1995

SHB 1398

C 323 L 95

Regulating acupuncture licensing.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Dellwo, Backlund, Quall, Conway, Cody, Morris and Casada).

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

Background: Persons who practice acupuncture must be certified to practice by the Department of Health unless otherwise authorized by law to perform such procedures.

Acupuncture is regulated under other practice laws as well. Physician assistants and osteopathic physician assis-

tants, when certified by their respective boards, may practice acupuncture under the direct supervision of either a physician or osteopathic physician. Physicians may also practice acupuncture as their scope of practice includes medicine and surgery generally.

The acupuncture certification law defines acupuncture as a health care service based on an Oriental system of medical theory which treats organic or functional disorders by employing specified techniques, such as needles or other modalities, at specific acupuncture points or meridians on the human body. The rendering of dietary advice based on traditional Oriental medical theory is also within the scope of acupuncture certification law.

Summary: The technical regulatory terminology of the practice of acupuncture is changed from certification to licensure, and only persons qualifying for licensure may practice acupuncture, unless otherwise authorized by law in other practice acts.

The rendering of dietary advice is included in the scope of practice only in conjunction with the use of other acupuncture techniques. A license would not be required solely for the rendering of dietary advice.

Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

SHB 1401

C 324 L 95

Allowing disclosure of juvenile records to affected school districts.

By House Committee on Education (originally sponsored by Representatives Brumsickle, Cole, Carlson, G. Fisher, Mastin, Poulsen, Elliot, Quall, Clements, Smith, Chandler, Patterson, Costa, Mielke, Campbell, Mulliken, Honeyford, Talcott, Cooke, Thompson, L. Thomas, Mitchell, Kremen, Scott, Wolfe, Boldt, Conway and McMorris).

House Committee on Education
Senate Committee on Education

Background: Educators are interested in receiving information about students coming to schools in order to ensure the best placement, supervision, and support services for the student. Educators also are interested in ensuring the safety of other students and staff. Obtaining information regarding students who have recently been released from state detention facilities is especially desired.

Educators have expressed concerned about being sued for transferring and handling records, even if the transfers and handling are conducted in accordance with state and federal law.

SHB 1404

Summary: The appropriate school district or approved private school is to be notified when a state juvenile detention center operated by the Department of Social and Health Services releases a juvenile who has committed a violent crime, sex crime, or stalking crime, except in certain circumstances.

A school district or district employee who releases information in compliance with state and federal law is immune from civil liability for damages unless the school district or district employee acted with gross negligence or in bad faith.

Votes on Final Passage:

House	95	1	
Senate	38	6	(Senate amended)
House	80	14	(House concurred)

Effective: July 23, 1995

SHB 1404

C 147 L 95

Revising shellfish sanitation requirements to enhance the safety of recreationally and commercially harvested seafood.

By House Committee on Natural Resources (originally sponsored by Representatives Fuhrman, Buck and Basich; by request of Department of Health).

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: The Department of Health's Office of Shellfish Programs is responsible for protecting the public from illnesses caused by eating contaminated oysters, mussels and clams. The office monitors and classifies the sanitary conditions of major commercial shellfish growing areas and over 140 recreational beaches.

The department's shellfish program does not have authority to restrict shellfish harvests at recreational beaches if a public health threat is present. The department does operate a toll-free hotline to warn the public of a public health threat. Also, the department does not have authority to restrict the harvest of non-shellfish marine species that may pose a public health threat.

Commercial shellfish beds that do not meet federal shellfish sanitation standards are de-certified by the department. State law does not allow commercial shellfish harvesting in areas that are de-certified. Recent changes in the national shellfish program, administered by U.S. Food and Drug Administration, allows certain harvests in de-certified beds if procedures are in place to ensure that the shellfish will not be used for human consumption.

In 1992, the U.S. Food and Drug Administration (FDA), included scallops as a species requiring public health controls. State law does not define scallops as a shellfish for purposes of the state shellfish sanitation program.

The FDA also requires state's shellfish sanitation programs to have clear statutory authority to inspect commercial shellfish operations, including the ability to impose administrative inspection warrants.

A person convicted of illegally harvesting, possessing, or selling shellfish from a commercial bed is guilty of a gross misdemeanor and may be fined, imprisoned, or both. Current law specifies that any fine may not be less than \$25 or more than \$1,000 and that any imprisonment may not be less than 30 days or more than one year.

Summary: Scallops are included in the definition of shellfish covered under the department's shellfish protection program.

Commercial shellfish growers are allowed to harvest shellfish in a de-certified bed, if certain conditions are met to ensure that the harvested shellfish will not be used for human consumption.

The department is explicitly authorized to have access to all areas of a commercial shellfish operation during an inspection, and may issue an administrative inspection warrant if certain conditions are met. The department must conduct inspections during normal working hours and days.

The Department of Health is given authority to close, by administrative order, commercial or recreational harvest of any marine species, if it is found that a public health threat exists. "Marine species" is defined as any marine fish, invertebrate, or plant. The department may not restrict the harvest of shellfish taken from private tidelands.

Any person found to be illegally selling marine species that has been restricted by the department is guilty of a gross misdemeanor and to civil penalties. Any person found to be illegally in possession of a restricted marine species is subject to civil penalties. The specific references to the minimum and maximum fines and jail terms are removed.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 23, 1995

HB 1407

C 148 L 95

Transferring functions of the Maritime Commission to a nonprofit corporation.

By Representatives K. Schmidt, R. Fisher, Horn, Chandler and Elliot; by request of Washington State Maritime Commission.

House Committee on Transportation
Senate Committee on Transportation

Background: All commercial vessels over 300 gross tons entering Washington waters are required to have an oil spill

response system. To that end, vessel owners or operators must prepare an oil spill contingency plan for submittal to the Office of Marine Safety (OMS) prior to entering Washington waters. Additionally, an emergency response communications network is required to ensure calls for assistance would be acted upon in the event of an oil spill. A formal contractual relationship must be established with an approved oil spill response contractor capable of responding to a total loss of oil from a vessel anywhere in Washington waters. Finally, a full mobilization exercise, monitored by OMS personnel, must be performed annually. The vessel owner or operator is subject to civil penalties for the nonperformance of these requirements.

Realizing the potential impracticality and expense of requiring each vessel calling on a Washington port to have an individualized vessel contingency plan, the 1990 Legislature created the Washington State Maritime Commission (WSMC) to prevent any potential loss of trade due to the oil spill first response system requirements. While some commercial vessel owners or operators have voluntarily joined organizations which provide immediate oil spill response, the WSMC was formed for those vessel owners or operators who are not members of an approved cleanup cooperative or who do not have individual vessel contingency plans.

The WSMC is responsible for a "first response" system to ensure rapid deployment of personnel and equipment to a spill site. When a spill involves a vessel covered by the WSMC, the WSMC is responsible for a complete containment, recovery and cleanup response for the first 24 hours after the initial spill report. Expenses incurred during the first 24-hour period by WSMC must be paid by the responsible party (i.e., the spiller).

In order to fulfill its duties, the WSMC is vested with the responsibility and authority to develop a contingency plan and a communications network, and to enter into contracts with an oil spill response contractor. The WSMC levies an assessment on those vessels using its resources in order to fully fund its operation.

In 1994, the Legislature determined that the functions of the WSMC could be provided by a nonprofit, private corporation. Thus, the Legislature voted to sunset WSMC as of July 1, 1995.

Summary: The Washington State Maritime Commission (WSMC) is authorized to conduct activities and make expenditures necessary for the transition of its services and contracts to the nonprofit corporation established for the purpose of providing oil spill response and contingency plan coverage.

The sunset of the WSMC occurs upon completion of the transfer to a nonprofit corporation, but no later than July 1, 1995.

WSMC's documents, books, records, tangible property and assets are transferred to the nonprofit corporation. Funds transferred are earmarked for oil spill response and contingency plan coverage. No funds may be transferred

until liabilities of the WSMC have been provided for or satisfied. Outstanding liabilities not provided for or satisfied by the WSMC shall be transferred to the nonprofit corporation.

The statute providing that the attorney general will serve as the legal adviser to the WSMC is repealed, effective July 1, 1995.

The statute allowing for a contractual provision indemnifying authorized contractors of the WSMC against specific loss, damage, or injury arising out of the performance of the contract and resulting from the fault of the WSMC, a member, officer, employee, incident commander, or agent thereof, is repealed.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: April 27, 1995 (Sections 1-3)
July 1, 1995 (Section 4)

ESHB 1410
PARTIAL VETO
C 18 L 95 E2

Making appropriations.

By House Committee on Appropriations (originally sponsored by Representatives Silver and Sommers; by request of Office of Financial Management).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The state government operates on the basis of a fiscal biennium that begins on July 1 of each odd-numbered year.

Summary: The 1995-97 omnibus appropriations act is enacted.

Votes on Final Passage:

House	59	39	
Senate	28	19	(Senate amended)
House			(House refused to concur)

First Special Session

House	58	37	
Senate	36	11	(Senate amended)
House			(House refused to concur)
Senate	36	12	(Senate amended)

Second Special Session

House	59	34	
Senate	36	11	(Senate amended)
House	53	39	(House concurred)
House	54	42	(House reconsidered)

Effective: July 1, 1995

Partial Veto Summary: The Governor vetoed 20 provisions which placed restrictions on the use of funds

appropriated by the bill. For more information, see the Legislative Budget Notes.

VETO MESSAGE ON HB 1410-S

June 16, 1995

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 126(13); 139(4); 146 (lines 11-21); 201(3); 205(5)(d); 205(5)(e); 206(2); 206(3); 207(1)(c); 207(2)(c)(i); 207(2)(c)(iii); 219(5); 219(6); 303(2); 303(10); 308; 309(3); 311 (beginning with the word "subject" on line 20, and ending with the word "section" on line 28); 914; 916; 917; and 925, Engrossed Substitute House Bill No. 1410 entitled:

"AN ACT Relating to fiscal matters; making appropriations and authorizing expenditures for the operations of state agencies for the fiscal biennium beginning July 1, 1995 and ending June 30, 1997;"

Engrossed Substitute House Bill No. 1410, the state operating budget, will fund public schools, colleges, universities and other important public services for the next two years. The legislature deserves great credit for working through their differences and coming to agreement on some very difficult issues. Nonetheless, I am very concerned with certain items included in this budget.

Section 126(13), page 16, Marketplace Program (Department of Community, Trade, and Economic Development)

This provision would require the Department of Community, Trade, and Economic Development to invest \$150,000 General Fund-State in the Marketplace program. While I believe this to be a worthwhile program, I am concerned that this level of expenditure would require reductions in other important trade activities conducted by the Department. I have asked the agency to report to me on the performance of the Marketplace program and recommend an expenditure plan for the 1995-97 Biennium.

Section 139(4), page 24, Study the Feasibility of Rewriting Titles 82 and 84 RCW (Department of Revenue)

This subsection directs the Department of Revenue to study the feasibility of rewriting Titles 82 and 84 RCW "for clarity and ease of understanding" and report its findings to the legislature in the 1996 session. The Department did not, however, receive "sufficient funds" to conduct this study, as stated in this provision. While both the Department and I think this is a very important project and goal, it is unreasonable to expect the Department to undertake this additional task along with the other increased responsibilities mandated by regulatory reform, without funding for this purpose.

Section 146, lines 11-21, page 27, Certified Public Accountants' Account (Board of Accountancy)

This section requires the Board of Accountancy to spend \$50,000 of the Certified Public Accountants' appropriation to study the financial and enrollment impact of a Board proposal to increase the educational requirements for CPA certification. The Board of Accountancy proposed the new requirements to keep Washington accountants competitive and properly educated. While that proposal has merit, I share the legislature's concern that imposing additional educational requirements on students seeking to qualify for professional certification will cost students and the state additional money and potentially reduce access to higher education. The budget proviso prohibits the Board from implementing the proposed rule until a study is completed of its likely effect on public and private higher education institutions and presented to the higher education and fiscal committees of the legislature. The study is to be conducted in cooperation with the Higher Education Coordinating Board (HECB).

While I agree with the intent of this proviso, I am vetoing it because the required study will not cost \$50,000. The HECB estimates that the study can be done for about \$20,000. The amount not spent on the study can be used for giving CPA exams.

Because I think the study is important, I will ask the Board of Accountancy to delay implementation of the increased educational requirements until the HECB and the Board of Accountancy complete a study of the financial and enrollment impact of the proposed changes to CPA certification requirements. The study should provide the legislature and Board of Accountancy with objective information regarding costs and enrollments associated with this important decision.

Section 201(3), page 30, Special Authorization for Prescription Drugs and Medications (Department of Social and Health Services)

This subsection prohibits the Department of Social and Health Services (DSHS) from requiring special authorization before prescription drugs and medications can be prescribed to Medicaid eligible recipients for non-medical reasons. This language would limit the state's ability to curb the growth of health care costs, while also causing serious problems for those charged with ensuring that medications with high risk of abuse and misuse are distributed appropriately. Retaining the ability to require authorization for certain drugs will help control costs and is an important tool in preventing drug abuse.

I believe the original intent of this proviso was to terminate the Washington State Supplemental Drug Discount (WSSDD) program. However, this goal is achieved in section 209(6) of this act, which I have approved. Therefore, as of July 1, 1995, the Supplemental Drug Discount Program is discontinued.

Section 205(5)(d), pages 37 and 38, Out of Home Services (Department of Social and Health Services, Developmental Disabilities)

This section requires DSHS to serve an additional 150 persons in out-of-home community residential care during the 1995-97 Biennium, with service priority given to those currently residing with elderly parents or relatives. The provision of expanded services at a reduced cost is a laudable goal; in fact, my budget included a similar expectation. However, the stipulation that these services must be "out-of-home" conflicts with parental choice and personal preferences. I am vetoing this section; however, I am directing the Department to provide either out-of-home or in-home community residential services to at least 150 additional persons, with due consideration given to personal and family choices and priority given to those residing with elderly parents or relatives.

Section 205(5)(e), page 38, and Section 206(2), page 39, Medicaid Personal Care Services (Department of Social and Health Services: Developmental Disabilities, and Aging and Adult Services Administration)

These sections attempt to control growth in the Medicaid Personal Care program through adjustments to eligibility standards and service levels. While I agree that Personal Care growth must be managed, the Department must take a more flexible and coordinated approach than limiting expenditures within individual programs. The Department is unable to adjust eligibility criteria within one program without affecting clients and services in another program. Section 205(5)(f) of the operating budget bill requires DSHS to evaluate the feasibility of redesigning the Medicaid Personal Care program for the developmental disabilities community. This study should provide the Department and the legislature with enough information to generate viable options in addressing the future of the Personal Care program.

Sections 206(3), page 39, Community Options Program Entry System (Department of Social and Health Services, Aging and Adult Services Administration)

This section limits growth in the Community Options Program Entry System (COPES) through adjustments to eligibility standards and service levels or the terms of the federal waiver. This proviso would limit the Department's ability to implement the reforms of the Long Term Care system embodied in E2SHB 1908. Furthermore, adjusting the eligibility standards within COPES would similarly affect the rules for eligibility within nursing homes.

Section 207(1)(c), page 40, General Assistance for Pregnancy Program (Department of Social and Health Services, Economic Services)

This proviso limits the General Assistance for Pregnancy program (GA-S) to \$7.7 million as specified in RCW 74.04.005 as amended by Substitute House Bill No. 2083. This bill was not approved by the legislature and the proviso alone, without statutory change, offers neither sufficient specificity nor legal authority to limit program eligibility. Therefore, the Department of Social and Health Services will continue to provide assistance to all eligible pregnant women as specified in current statute.

Section 207(2)(c)(i) and (iii), page 41, Systematic Alien Verification for Entitlements System (SAVE) (Department of Social and Health Services, Economic Services Program)

These subsections require DSHS to reinstate the Systematic Alien Verification for Entitlements System (SAVE) program by September 30, 1995. There is also a requirement to post signs at every community service office letting applicants and recipients know that illegal aliens will be reported to the United States Immigration and Naturalization Services and that SAVE is in use in the office. The Department's past experience with the SAVE program has established that it is an inefficient and costly method of identifying fraudulent applications for assistance. The federal government has also come to the conclusion that the SAVE program costs twice as much as is saved.

This administration in no way supports granting benefits to persons who are not eligible for assistance. The Department has effective mechanisms currently in place to ensure that benefits are delivered to those truly in need, and not to those who are intent on defrauding the state.

Section 219 (5), page 50, Claims Unit for State Employees (Department of Labor and Industries)

Section 219(5) directs the Department of Labor and Industries (L&I) to report to the appropriate policy and fiscal committees of the legislature with a plan for establishing within existing resources a designated claims unit to specialize in claims by state employees.

This proviso is in conflict with the agency's efforts to decentralize claims management. The agency has just started to implement the Long-Term Disability and Managed Care pilot projects as directed by the legislature. The results from these two pilot projects will be used to improve the Department's overall claims programs.

Additionally, creating a claims unit for state employees would foster a perception that a worker's compensation program managed by state government is planning to give special preference to government agencies at the expense of private industry ratepayers. I believe that any improvements made to the claims program should benefit all workers and employers, not just state employees.

Section 219(6), page 50, Regulatory Reform (Department of Labor and Industries)

Section 219(6) prohibits L&I from spending its appropriated funds to implement rules that do not comply with the Regulatory Fairness Act under RCW 19.85 or that have been determined by the Joint Administrative Rules Review Committee to be outside of legislative intent.

As with section 504 of ESHB 1010, which I just recently vetoed, this proviso is unconstitutional. It violates the state constitutional provisions requiring legislative acts to be passed by the entire legislature with presentment to the Governor for approval. By restricting funds for rule enforcement and ignoring the statutory judicial review process, this proviso violates the separation of power doctrine by unduly encroaching upon those constitutional powers reserved for the executive and judicial branches of government.

Section 303(2), page 59, Water Rights Claims Filing (Department of Ecology)

Section 303(2) provides funding for the implementation of SHB 1327, which was not passed by the legislature. I am directing the

Department of Ecology to use these funds for the Water Resources program.

Section 303(10), page 61, Yakima Adjudication (Department of Ecology)

Section 303(10) provides an additional \$500,000 from the Water Right Permit Processing Account for additional staff and resources for the Yakima adjudication of water rights. Although I recognize the importance of the Yakima adjudication, there are currently \$1,854,000 in General Fund-State resources devoted to this effort. The Department was provided woefully inadequate resources to address critical water quantity issues throughout the state. Therefore, I am directing the Department of Ecology to use \$500,000 of the Water Right Permit Processing Account for the Water Resources program. The remaining \$1,854,000 of the General Fund-State appropriation shall be used to continue the Yakima Adjudication.

Section 308, page 63-64, Office of Marine Safety

I am vetoing this section because funding for the Office of Marine Safety (OMS) has been included in the transportation budget. The transportation budget, 2ESHB 2080, contains statutory language that would merge OMS into the Department of Ecology (DOE) on January 1, 1996. In accordance with that merger, the transportation budget provides funding for OMS from July 1, 1995 through December 31, 1995 and funding for the Department of Ecology to sustain the merged oil spill prevention program for the remainder of the biennium.

Although the OMS will be merged into DOE, I am committed to maintaining a strong and viable program aimed at preventing oil spills on our marine waters. I support maintaining a high level, visible and priority focus on these issues through a division of oil spill prevention and response at the Department of Ecology. Moreover, I am committed to ensuring that full funding be available for the program, pending legislative remedy, should any situation arise placing appropriations for this program in jeopardy.

Section 309(3), page 64, Flood Damage Reduction (Department of Fish and Wildlife)

This appropriation to the Department of Fish and Wildlife is for the implementation of E2SSB 5632 regarding flood damage reduction. Although I have signed this legislation, I have vetoed the sections for which this funding was intended. Since no additional funding was provided to the Department for this activity, I am vetoing this budget proviso.

Section 311, beginning with the word "subject" on line 20 and ending with the word "section" on line 28, page 69, Resource Management (Department of Natural Resources)

The limiting language in this section places a condition upon the Department of Natural Resources' (DNR) appropriation from the Resource Management Cost Account (RMCA) that prohibits the agency from expending any moneys, from any source, to implement a long-term management agreement with the federal government such as a Habitat Conservation Plan (HCP), without a specific appropriation for that purpose and a prior report to the legislative committees on natural resources. Although requiring a report is a proper legislative prerogative, this language constrains the vast majority of the agency's RMCA appropriation, which supports the preponderance of agency activities upon state trust land. Expenditures from this account should not be dependent upon what the agency does or does not do with respect to just one of those activities, such as implementation of a long-term management agreement with the federal government. An HCP is an important tool that can be used to protect species while allowing predictable and stable timber harvest on state trust lands. This limiting condition presents an overly broad constraint upon an agency's operations.

Section 914, pages 138-140, Prohibition on the Use of Toxics Control Accounts for Public Participation Grants (Department of Ecology)

This section prohibits the expenditure of funds for public participation grants, except for those assisting in the implementation of ESHB 1810. I am vetoing this section because I believe it is important to maintain public financial support for non-govern-

mental entities engaged in local environmental projects. This program has proven its value in sustaining citizen oversight activities at sites ranging from the Hanford and Commencement Bay cleanups to the Everett Smelter site. It also provides funding for industry associations to educate their members about pollution prevention and waste reduction practices. In restoring funds for public participation grants, I want to ensure that citizens continue to have a strong voice in this era of changing environmental challenges.

Section 916, page 141, Prohibition on Expenditures for the Northwest Marine Straits Sanctuary

In 1988, Congress directed the National Oceanographic and Atmospheric Agency (NOAA) to conduct a study on whether the Northwest Straits area of Washington should be considered for inclusion in the federal Marine Sanctuary program. The state has insisted that it be an equal partner with NOAA in any such study, in part to ensure that the interests of those in the study area are included in the process. This study is long overdue and the state and NOAA are now working closely in this study process. A study on feasibility and options is quite distinct from any decision to include the Northwest Straits in the Marine Sanctuary program. The study should be allowed to move forward. The state's role in participating in this process is essential and for this reason I am vetoing section 916.

Section 917, page 141, Rules for Spotted Owl Protection

This section prevents any state agency from spending any funds appropriated in this act to establish or publish rules that exceed federal requirements for habitat protection for northern spotted owls. This limitation would prevent the Forest Practices Board or the Board of Natural Resources from taking legitimate actions that they may deem appropriate for the protection of owls or other species. If the Legislature wishes to prohibit either the Forest Practices Board or the Board of Natural Resources from taking such action, it should provide such instruction directly. Limiting action through the budget bill is not appropriate.

Section 925, page 145, Mandatory Diversity Training Prohibition

This section prohibits the use of appropriated funds for mandatory diversity training of state employees. This prohibition is inconsistent with the tenets of my Executive Order 93-07 in that it fails to recognize the reality of today's increasingly diverse workforce, clientele and population and the corresponding training needs and requirements. As an employer, Washington State is responsible for ensuring that our employees have the necessary training to do their jobs. This provision would present serious obstacles to agencies' ability to carry out essential human resource management obligations.

In addition to noting those provisions I have vetoed, I would like to comment on a troubling provision I have determined appropriate to approve. Section 209(16) of this bill authorizes the Department of Social and Health Services to provide no more than five chiropractic service visits per person per year for those eligible recipients with acute conditions. This language is troubling in that the legislature provided no additional funding to the Department for chiropractic services. Moreover, this proviso appears to be in conflict with federal statutes which do not permit states to impose such specific limits on services.

I have decided to not veto this language because I do not wish to definitely preclude DSHS from offering chiropractic services to eligible recipients. However, I feel there needs to be work done to clarify several issues. I am directing the Department of Social and Health Services to work with chiropractors and other medical providers to develop an approach which would provide cost-effective chiropractic services for medical assistance recipients. I would like the results of this study by December 1995 so, if necessary, additional funding could be provided by the 1996 Legislature.

For these reasons, I have vetoed sections 126(13); 139(4); 146 (lines 11-21); 201(3); 205(5)(d); 205(5)(e); 206(2); 206(3); 207(1)(c); 207(2)(c)(i); 207(2)(c)(iii); 219(5); 219(6); 303(2); 303(10); 308; 309(3); 311 (beginning with the word "subject" on

line 20, and ending with the word "section" on line 28); 914; 916; 917; and 925 of Engrossed Substitute House Bill No. 1410.

With the exception of sections 126(13); 139(4); 146 (lines 11-21); 201(3); 205(5)(d); 205(5)(e); 206(2); 206(3); 207(1)(c); 207(2)(c)(i); 207(2)(c)(iii); 219(5); 219(6); 303(2); 303(10); 308; 309(3); 311 (beginning with the word "subject" on line 20, and ending with the word "section" on line 28); 914; 916; 917; and 925, Engrossed Substitute House Bill No. 1410 is approved.

Respectfully submitted,

Mike Lowry
Governor

SHB 1413
FULL VETO

Allowing a business and occupation tax deduction for certain amusement devices.

By House Committee on Finance (originally sponsored by Representatives Boldt, Morris, Lisk, Mulliken and Kremen).

House Committee on Finance

Background: Washington's major business tax is the business and occupation (B&O) tax. Although there are several different rates, the principal rates are:

Manufacturing, wholesaling, & extracting	0.506%
Retailing	0.471%
Services:	
- Business Services	2.5%
- Financial Services	1.7%
- Other activities	2.09%

The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Thus, the tax pyramids at each level of activity. For example, retailers are not allowed to deduct amounts paid to wholesalers; and contractors are not allowed to deduct amounts paid to a subcontractor. Similarly, in the amusement game industry, the owner of an amusement device pays tax on the entire gross receipts received through a game machine, without deduction for amounts paid to the establishment in which it is located. An exception to this rule is allowed for real estate brokers, who may deduct commissions paid to another brokerage.

Summary: For B&O tax purposes, the owner of a coin-operated video game, pinball machine, juke box, or other similar device may deduct amounts paid to the person upon whose premises the device is operated, as long as the amusement device owner pays the premises

owner at the time the amounts are collected from the amusement device.

Votes on Final Passage:

House 84 14

First Special Session

House 82 15

Second Special Session

House 80 13

Senate 36 10

VETO MESSAGE ON SHB 1413

June 16, 1995

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. 1413 entitled:

"AN ACT Relating to business and occupation taxation;"

Substitute House Bill No. 1413 would allow owners of amusement devices to deduct the amount paid to the owner of the premises where the device is located and used from the gross receipts of the business.


Amusement device owners pay the owner of the premises an amount for the right to locate a device on those premises. The device owner receives the entire amount from the device, and that amount is subject to the business and occupation tax. The device owner pays the premises owner an amount of money, usually a percentage of the receipts of the device. The amount paid to the premises owner is also subject to the business and occupation tax by the premises owner. The industry argues that this is double taxation, or pyramiding.

The business and occupation tax is a gross receipts tax rather than a tax on profits; therefore, pyramiding is a necessary and desirable feature in the tax. Furthermore, these are two separate and distinct business activities. One person is allowing the use of his/her space; the other person is providing the device. Allowing a deduction for what is essentially a cost of the business (space rental), would violate the nature of the tax. There are few deductions which allow a business to deduct basic business expenses. Vending machine owners for example, which do business in the same manner, do not receive this deduction.

The industry argued that it was merely sharing the proceeds of the device with the premises owner and was essentially a partner with the owner. However, the industry has not chosen to legally structure its arrangements in such a fashion. Instead, the device owner has the right to all of the proceeds of the device, and must pay to the premises owner a certain percentage of the proceeds. This is no different from a retailer agreeing to pay a salesperson a certain percentage of the proceeds of his or her sales, and is simply a cost of doing business under the law.

For these reasons, I have vetoed Substitute House Bill No. 1413 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SHB 1414

C 179 L 95

Defining "acting in the course of employment."

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Lisk, Chandler, Fuhrman, Goldsmith, Cole and Romero).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: To be entitled to industrial insurance benefits, a worker must be injured while "acting in the course of employment." A worker is acting in the course of employment if he or she is acting at the employer's direction or in furtherance of the employer's business.

Generally, a worker is not considered to be in the course of employment while on a recreational excursion which is not incident to employment or in furtherance of the employer's interests. The Board of Industrial Insurance Appeals has held that workers playing on company softball or football teams are not in the course of employment if:

(1) the employer provided no financial support to the team, other than league entry fees, (2) the employer exerted no control over the players, (3) players were not paid for their time, (4) games were played off company premises and during nonwork hours, and (5) the company name was not used on team uniforms and no business was solicited through the team's participation in the league.

Summary: For the purposes of industrial insurance coverage, an employee is not "acting in the course of employment" while participating in social activities, recreational or athletic activities, events, or competitions, or parties or picnics, whether or not the employer pays some or all of the costs of the activities or events, unless: (1) the participation is during work hours, not including paid leave; (2) the employee is paid monetary compensation by the employer to participate; or (3) the employee is ordered or directed by the employer to participate or the employee reasonably believes that he or she was ordered or directed to participate.

Votes on Final Passage:

House 98 0

Senate 40 0

Effective: July 23, 1995

HB 1425

C 240 L 95

Protecting privileged communication.

By Representatives Scott, Padden, Appelwick, Costa, Sheldon, Dickerson, Chappell, Hatfield, Brown and Basich.

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

Background: The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "privileged communications." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they are to be protected.

Under the common law, four criteria must be satisfied to find a privilege: (1) the communication must be made in confidence; (2) the element of confidentiality must be essential to the relationship; (3) the relationship must be one which, in the opinion of the community, ought to be fostered; and (4) the injury of disclosing the communication must be greater than the benefit of disclosure.

Washington statutory law establishes a number of privileged communications, including communications between the following persons: (1) husband and wife, with some exceptions; (2) attorney and client; (3) clergy and confessor; (4) physician and patient with some exceptions; and (5) public officers and witnesses, if the public interest would suffer by disclosure.

Summary: A new privileged communication is created.

A peer support group counselor may not be compelled to testify about any communication made to the counselor by a law enforcement officer while receiving counseling, unless the law enforcement officer consents. The counselor must be designated as such by the sheriff, police chief, or chief of the State Patrol prior to the incident that results in counseling. This privilege applies only to communications made to a counselor acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to any incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

"Peer support group counselor" means a law enforcement officer or employee trained to provide emotional and moral support or a non-employee counselor designated to provide emotional and moral support to an officer as a result of an incident that occurred while the officer acted in his or her official capacity.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995

SHB 1427

C 65 L 95

Modifying provisions for emergency medical service professionals.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Dellwo, Backlund, Thibaudeau and Skinner).

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

Background: Emergency medical service personnel are certified by the Department of Health or the University of Washington School of Medicine to practice emergency medical services. Categories of emergency medical personnel include mobile intravenous therapy technicians, mobile airway management technicians, and mobile intensive care paramedics.

Training standards and practice parameters for the different categories of emergency medical services personnel are specified by statute.

Summary: The specific levels of emergency medical service personnel are repealed and these personnel are defined generally as "emergency medical service intermediate life support technicians and paramedics."

Practice parameters and training standards of levels of emergency medical service intermediate life support technicians and paramedics are to be promulgated by rule by the Department of Health, in conjunction with the Emergency Medical Services Licensing and Certification Advisory Committee and the Medical Quality Assurance Commission.

The practice activities of emergency medical services personnel are clarified. They are limited to actions taken under the express orders of medical program directors, and do not include free-standing or non-directed actions (for actions that are not emergencies or life-threatening conditions).

Votes on Final Passage:

House	98	0	
Senate	46	0	

Effective: July 23, 1995

SHB 1429

C 280 L 95

Lessening recreational vehicle regulation.

By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Morris, Chandler, Chappell, L. Thomas, Thompson, Hargrove, Casada and Silver).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade
Senate Committee on Ways & Means

Background: Since 1970, the Department of Labor and Industries has regulated the body and frame design and the installation of plumbing, heating and electrical equipment in recreational vehicles for purposes of consumer safety. The department also regulates mobile homes and commercial coaches for this purpose. Regulations must be reasonably consistent with the advisory standards and specifications set by the American National Standards Institute.

It is unlawful for anyone to lease, sell, or offer for sale, a recreational vehicle that does not meet the regulations and requirements established by the department. A violation of the safety regulations and standards is a misdemeanor.

The department approves plans and specifications for each model. The plans and specifications cannot be changed without approval. Any models that are altered must display an insignia indicating that the models comply with appropriate regulations.

The director issues insignia to be placed on individual units showing that plans for this unit have been approved. The director also sets the fee schedule for using the insignia.

The director may conduct necessary investigations or inspections of factories, warehouses, or places where recreational vehicles are manufactured, stored, or sold. The director may charge a fee for inspections.

Used recreational vehicles manufactured for use outside the state that have been used for at least six months are exempted from compliance.

If recreational vehicles meet standards imposed by other states having similar and accepted standards to those of this state as determined by the director, they may be approved as having met the standards imposed by this state.

Recreational vehicles are defined primarily by size and are distinguished from commercial coaches, mobile homes, and park trailers.

Summary: The Department of Labor and Industries retains authority to regulate the safety of the body and frame design and installation of plumbing, heating, and electrical codes for recreational vehicles and park trailers.

For purposes of this safety regulation, recreational vehicles and park trailers are separately defined. "Recreational

vehicle" includes travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes.

Manufacturers may qualify to be self-certified for recreational vehicles and park trailers. Those who self-certify are exempt from certain department regulations including review of plans and specifications of each model and the insignia of approval. Manufacturers are also exempt from the department's broad inspection and investigation authority. A separate fee schedule would apply to those who self-certify.

In order to qualify for self-certification, the manufacturer is audited by the department and reviewed for the following:

- A quality control program;
- Ability to produce products to standards set by the American National Standards Institute for recreational vehicles or park trailers; and
- On-site availability of plans for each model being manufactured.

The department may reevaluate a manufacturer's self-certification status if the department believes that the manufacturer is no longer meeting the criteria of the initial audit. For purposes of this reevaluation, the department may inspect and investigate the manufacturer.

The manufacturer pays the cost of any self-certification audit or subsequent audit.

A manufacturer who has been denied self-certification by the department must receive notice in writing that includes the reasons for denial and must receive a copy of the initial self-certification audit report. A decision to deny self-certification may be appealed under the Administrative Procedures Act.

The department must conduct performance audits every two years of industry association quality control programs used by manufacturers.

The bill clarifies that both recreational vehicles and park trailers, meeting the requirements of the Department of Labor and Industries, need not comply with local ordinances covering the same subject.

Votes on Final Passage:

House	85	11	
Senate	47	1	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995

SHB 1430

C 286 L 95

Exempting certain employers from additional retirement contributions.

By House Committee on Appropriations (originally sponsored by Representatives Carlson, Sehlin, Cooke,

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Sommers, Dellwo and Basich; by request of Joint Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Under the public employees' retirement system (PERS), both the employer and the employee make contributions to the system; the contributions are based on a percentage of the employee's salary. Approximately 1,100 political subdivisions do not participate in PERS.

If an employer who does not belong to the PERS system wishes to join, the employer must pay both the employer's and employee's contributions for the period dating back to the employee's date of hire. These back contributions are required even if employees were covered under a private retirement plan for all or part of the prior service period.

Summary: Employers joining PERS for the first time after the bill's effective date may choose one of the following options:

- 1) Service credit may be purchased from the date of the employer's admission to PERS;
- 2) Retroactive service credit from the date of the employee's date of hire may be purchased by paying back contributions plus interest when feasible through one of the following methods:
 - a) all back contributions are paid by the employer;
 - b) all back contributions are paid by both employer and employee. The proportion of payments can be decided by the employer and employee and participation is optional;
 - c) all back contributions are paid by the employee but participation is optional.

Former employees who are current PERS members may purchase past service credit by paying both employer and employee contributions plus interest.

Votes on Final Passage:

House	96	0	
Senate	40	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 23, 1995

ESHB 1431

C 281 L 95

Paying for department of retirement system expenses.

By House Committee on Appropriations (originally sponsored by Representative Silver; by request of Department of Retirement Systems).

House Committee on Appropriations

Background: The Department of Retirement Systems (DRS) is responsible for the general administration of various public retirement systems. DRS administrative

costs are paid from the retirement systems expense account.

Before 1993, DRS did not have a systematic program for detecting fraud or recovering overpayments. DRS staff attempted to detect fraud and overpayments as staff time permitted.

Effective July 1, 1993, a statute was permitted DRS to use interest earnings from the pension funds to pay costs incurred in investigating fraud and recovering overpayments. Based on this authorization, DRS created an investigator position to investigate fraud and recover overpayments. By statute, the fund source for this expense ends on June 30, 1995.

Summary: The June 30, 1995, termination date for use of interest earnings from pension funds to pay for investigation of fraud and collection of overpayments is deleted. DRS may continue to use interest earnings from the pension funds to pay for these services. Funds recovered through overpayment collections will be returned to the appropriate trust fund.

Votes on Final Passage:

House	96	0	
Senate	43	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 1, 1995

SHB 1432

C 180 L 95

Providing for notice statements regarding county financial matters.

By House Committee on Finance (originally sponsored by Representatives Brumsickle and Reams).

House Committee on Finance
Senate Committee on Government Operations

Background: Property tax bills sent by county treasurers must show the amount of taxes directly approved by the voters either as a dollar amount or as a percentage of the total taxes.

Summary: The requirement that voter-approved levy amounts be shown on the property tax bill is changed to include levies approved at all elections, not just general elections. The description of voter-approved taxes is clarified.

Votes on Final Passage:

House	95	0	
Senate	44	0	

Effective: July 23, 1995

HB 1433

C 66 L 95

Penalizing defacement of a state monument.

By Representatives Conway, Basich, Boldt, Romero, Poulsen, Huff, McMahan, Regala, Pelesky, L. Thomas, Thompson, Costa, Dickerson, Sherstad, Hatfield, Ebersole, Schoesler, Chopp and Carrell.

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

Background: The state can prosecute a person for malicious mischief if that person knowingly and maliciously causes damage to the property of another. If the amount of the property damage exceeds \$1,500, the state can charge the person with malicious mischief in the first degree, a class B felony. If the amount of the property damage is less than \$1,500, but greater than \$250, the state can charge the person with malicious mischief in the second degree, a class C felony. If the amount of property damage is less than \$250, the state can charge the person with malicious mischief in the third degree. The offense of malicious mischief in the third degree is a gross misdemeanor if the amount of property damage exceeds \$50. Otherwise, malicious mischief in the third degree is a misdemeanor. The state can prosecute a person who knowingly and maliciously defaces a state monument or memorial for malicious mischief.

Malice is an element of the crime of malicious mischief. Malice is defined as an evil intent, wish, or design to annoy or injure another person. It is generally not a crime for a person to knowingly cause damage to the property of another if he or she acts without malice.

Current law includes a few provisions that address willful damage to particular types of public property, such as school property. However, there is no provision which specifically deals with intentional damage to state monuments and memorials.

Summary: A person who knowingly defaces a state monument or memorial is guilty of a misdemeanor. There is no requirement that the person causing damage to a state monument or memorial act maliciously.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 23, 1995

SHB 1434

C 354 L 95

Increasing the limit for public utility districts to use alternative bid procedures.

By House Committee on Government Operations (originally sponsored by Representatives Hankins, Casada,

Mastin, Honeyford, Radcliff, Dyer, Grant, Blanton, Brumsickle, Delvin, L. Thomas and Chandler).

House Committee on Government Operations
Senate Committee on Government Operations

Background: A public utility district must use formal competitive bidding procedures to award a contract for purchasing any materials, equipment, or supplies when the amount of the contract exceeds \$15,000.

A public utility district is authorized to use a uniform process for awarding contracts for purchases from lists of vendors, in lieu of formal competitive bidding, when the amount of the contract will not exceed \$15,000.

Under the uniform process, the local government must have established by resolution a procedure for securing telephone or written quotations, or both, from at least three different vendors to ensure that a competitive price is established. The local government awards the contract to the lowest responsible bidder. After the award is made, the bid quotations are open for public inspection and are available by telephone inquiry. The local government must post a list of the contracts that are awarded through this informal process at least once every two months. The local government must publish a notice of the existence of vendor lists and solicit the names of vendors for the lists at least twice a year.

It is suggested that the maximum amount of a contract for purchases that may be awarded by a public utility district using these uniform procedures should be raised.

Summary: The maximum amount of a contract for purchases that may be awarded from a vendor list through a uniform process by a public utility district is increased from \$15,000 to \$35,000.

Votes on Final Passage:

House	97	0
Senate	42	0

Effective: July 23, 1995

SHB 1437

C 105 L 95

Revising lease rates for amateur radio electronic repeater sites.

By House Committee on Appropriations (originally sponsored by Representatives Foreman, Chandler, Mastin and B. Thomas).

House Committee on Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources
Senate Committee on Ways & Means

Background: The Department of Natural Resources may lease state lands for a variety of purposes, including commercial, industrial, residential, agricultural, and recreational purposes. In determining the lease rate, the

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department must ensure a fair market rental return to the state or the appropriate trust.

In 1988, the Legislature enacted legislation acknowledging the essential role performed by amateur radio operators in emergency communications and establishing a policy of providing a discount in the rental fee paid by amateur radio operators. For the first repeater unit placed at a department site by an eligible amateur radio lessee, the lease rate is 50 percent of the normal rental rate. For any subsequent repeater units placed at the same site, the lessee pays 25 percent of the normal rental rate.

The 1988 legislation requires that the state receive the full market rental value for these sites. The department was directed to develop guidelines to determine which amateur radio lessees receive the reduced rental rate based on the amount of funding provided by the Legislature to offset the full market rental rates.

Currently, the department leases space to 22 amateur radio operators for 45 radio units on 14 different sites.

Summary: A new reduced rental rate program replaces the percentage rental rate reduction program in current law. An amateur radio operator qualifies for a reduced rent of \$100 per year per site if the operator: (1) registers and remains in good standing with the Radio Amateur Civil Emergency Services and Amateur Radio Emergency Services organizations; or (2) if an amateur group is involved, the group signs a statement of public service developed by the Department of Natural Resources.

The Legislature's appropriations for this program shall account for the estimated difference between the reduced rental rate the amateur radio operators pay and the fair market rent of the sites, as established by the department.

Notes on Final Passage:

House	95	0
Senate	41	0

Effective: July 23, 1995

ESHB 1440

C 9 L 95 E2

Providing tax exemptions for blood banks.

By House Committee on Finance (originally sponsored by Representatives Boldt, Dyer, Morris, Backlund, Van Luven, Dellwo, Carrell, B. Thomas, L. Thomas, Thompson, Costa, Sherstad, Chandler, Kremen, Cooke and Jacobsen).

House Committee on Finance

Background: Property Tax. Property owned by a nonprofit organization and used exclusively in the business of procuring, processing, storing, distributing, or using whole blood, plasma, blood products, and blood

derivatives is exempt from property tax. Leased property is not exempt.

Sales and Use Taxes. The retail sales tax is imposed on sales of most articles of tangible personal property and some services. The sales tax is paid by the purchaser and collected by the seller. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location.

The use tax is imposed on the use of articles of tangible personal property when the sale of the property was not subject to sales tax. The use tax applies when property is acquired from out of state. It also applies when property is acquired from an in-state person who does not collect sales tax. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Washington law does not provide a general exemption from the retail sales and use taxes for nonprofit organizations or government agencies. Most sales tax exemptions are for specific items, such as food for home consumption and prescription drugs. Nonprofit organizations generally pay tax when buying goods and services subject to sales tax. A few exemptions exist for nonprofit organizations such as sales to the Red Cross and sales of art objects to nonprofit artistic and cultural organizations.

Business and Occupation Tax. 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. Nonprofit organizations pay B&O tax unless specifically exempted by statute. Exemption from federal income tax does not automatically provide exemption from state taxes.

Specific B&O exemptions, covering all or most income, exist for several types of nonprofit organizations. The eligibility conditions vary for each exemption. The exemptions include nonprofit agricultural fairs, nonprofit church day care, bazaars and rummage sales, fund-raising auctions, nonprofit student loan agencies, nonprofit consumer debt counseling organizations, nonprofit fraternal organizations for premiums for death benefits, the Red Cross, sheltered workshops, youth organizations for membership fees and certain service fees, trade shows, kidney dialysis facilities, health or social welfare organizations for income received from governments, nonprofit artistic and cultural organizations, and public safety standards and testing organizations.

Summary: The property tax exemption for nonprofit blood banks is extended to include nonprofit tissue banks. The property tax exemption is also extended from property owned by nonprofit blood banks to property leased by nonprofit blood and tissue banks. The nonprofit organization must receive the benefit of the exemption on the leased property.

A business and occupation tax exemption is created for nonprofit blood, bone, or tissue banks on income that is exempt from federal income tax.

A sales and use tax exemption is created on the purchase or use of medical supplies, chemicals or specialized materials for nonprofit blood, bone, or tissue banks. The sales and use tax exemption does not apply to construction materials, office equipment, building equipment, administrative supplies or vehicles.

Votes on Final Passage:

House 98 0

First Special Session

House 97 0

Second Special Session

House 93 0

Senate 35 13

Effective: July 1, 1995

HB 1445

C 282 L 95

Streamlining hospital regulation and inspection.

By Representatives Silver, Valle, Sommers, Ogden, Fuhrman and Kremen; by request of Legislative Budget Committee.

House Committee on Health Care

Senate Committee on Health & Long-Term Care

Background: Hospitals are licensed by the Department of Health for the safe and adequate care and treatment of patients in accordance with standards adopted by the department, in cooperation with the Joint Commission on the Accreditation of Health Care Organizations.

The Department of Health is required to conduct annual inspections of hospitals for construction and operations. The Department of Social and Health Services is required to inspect for compliance with resident rights and direct care standards.

There are no standards specified in law for medical gas piping.

The Legislative Budget Committee conducted a study in 1994 on hospital health and safety regulations for achieving efficiencies and economies in the state's regulatory program. The committee requested legislation to implement the study recommendations.

Summary: The Department of Health is urged to conform its standards for hospital construction, maintenance and operation to the format and content of the survey standards of the Joint Commission on the Accreditation of Health Care Organizations.

To avoid duplication in inspections, the department must coordinate with the Department of Social and Health Services when these agencies have joint jurisdiction, such as in acute care and skilled nursing or psychiatric nursing functions, and Medicaid/Medicare long-term care beds.

A hospital accredited by the Joint Commission is not subject to an annual inspection if: (1) the survey standards

are substantially equivalent to state standards; (2) the commission has inspected it within the last twelve months; and (3) the department receives from the commission a copy of the survey reports verifying that the hospital meets applicable standards.

The Department of Health is required to adopt hospital construction standards for medical gas piping systems based on nationally recognized standards. Medical gas piping systems are included in the craft of plumbing, requiring installation by certified plumbers.

The Department of Health must study alternative strategies for achieving greater efficiencies in the hospital building design and review process, and report its findings and recommendations to the Legislature by January 1, 1996.

Votes on Final Passage:

House 98 0

Senate 48 0 (Senate amended)

House (House refused to concur)

Senate (Senate refused to recede)

House 96 0 (House concurred)

Effective: July 23, 1995

HB 1450

C 149 L 95

Including certain judgments to be summarized.

By Representatives Appelwick and Padden.

House Committee on Law & Justice

Senate Committee on Law & Justice

Background: County clerks are responsible for entering judgments in execution dockets. The clerk must specify the amount to be recovered and the relief granted. To assist the clerk with this record keeping function, the first page of a judgment that provides for payment of money must contain a summary of the judgment so the clerk does not have to read the entire document to obtain the needed information or interpret the judgment.

The requirement that a judgment contain a judgment summary only applies to judgments for money.

Summary: Judgments in rem, mandates of judgments, and judgments on garnishments must also contain judgment summaries.

Votes on Final Passage:

House 97 0

Senate 41 0

Effective: July 23, 1995

ESHB 1452

C 99 L 95

Allowing voters to protect a portion of metropolitan park district property taxes from prorationing.

By House Committee on Government Operations (originally sponsored by Representatives Mitchell, Regala, Reams, R. Fisher, Hickel, Ebersole, Carrell, Brumsickle, Huff and Conway).

House Committee on Government Operations
Senate Committee on Government Operations

Background: Regular and excess property tax levies. Article VII, Section 2, of the state constitution, provides that in any year the aggregate of all property taxes on any property may not exceed 1 percent of its "true and fair value." Property taxes that are subject to this 1 percent limitation are referred to as regular property tax levies.

Restrictions on regular levies. In most instances, the statute authorizing a regular property tax levy establishes a maximum annual levy rate for the tax that is described in terms of dollars or cents per \$1,000 of assessed valuation.

Statutes classify regular tax levies into three categories, and establish limitations on the amount of regular levies that may be imposed within the categories, as follows:

- The state imposes regular property taxes to fund K-12 education at a maximum rate of \$3.60 per \$1,000 of assessed valuation in any year, adjusted to what is called the state equalized value in accordance with the indicated ratio established by the Department of Revenue.
- The combined rate of most other regular property tax levies may not exceed \$5.90 per \$1,000 of assessed valuation in any year. Most regular property taxes are included in this category, including most county, city, fire district, and library district regular property.
- A few regular property tax levies are not placed into either of the above two categories. A maximum cumulative rate limitation is not established for these tax levies.

This third category of regular property taxes is sometimes referred to as the "other" category. Only a few tax levies are placed into the third category, including voter approved annual regular levies of up to 50 cents per \$1,000 of assessed valuation that may be imposed for six years to support emergency medical services. Instead of a precise combined dollar rate limitation for taxes in the third category, taxes in this category are limited only if the combined rates of all regular property taxes on any property (including taxes in the other two categories) exceed the constitutional 1 percent limitation.

Prorationing of regular property tax levies. If the combined rates of regular property tax levies in the second category of regular property taxes on any property exceeds the \$5.90 per \$1,000 of assessed valuation cumulative limitation in any year, statutes provide for the reduction or

elimination of levy rates to keep the combined rate of these taxes within the cumulative rate limitation. The reduction or elimination of regular property taxes is called the "prorationing" of levies.

This reduction is accomplished by further classifying regular property taxes, that are included within the second category of regular property tax levies, into status levels and reducing or eliminating taxes within the lower status levels to keep the combined rate of these tax levies within this limitation.

Metropolitan park districts. Metropolitan park districts are authorized to provide parks, zoos, and other recreational facilities and services. Only one metropolitan park district exists in the state, the Metropolitan Park District of Tacoma.

Metropolitan park districts are authorized to impose property taxes to finance these facilities and services. These property tax levies are placed into the second category of regular property tax levies and are divided into two separate levies and assigned differing status levels as follows:

- A levy of up to 50 cents per \$1,000 of assessed valuation is placed into a relatively high status level; and
- A levy of up to 25 cents per \$1,000 of assessed valuation is placed into a status level that is two levels below the status level for the 50 cents per \$1,000 of assessed valuation status level.

Summary: A metropolitan park district with a population of 150,000 or more is allowed to seek voter approval to protect its 25 cents per \$1,000 of assessed valuation levy from being prorated or reduced.

Such a metropolitan park district may submit a ballot proposition to its voters which, if approved, would remove all or part of the district's 25 cents per \$1,000 levy from the cumulative rate of \$5.90 per \$1,000 of assessed valuation and place any portion of this levy that would otherwise be prorated into the third or "other" category of regular property taxes for a six-year period.

Any potential reduction of levies in the "other" category is adjusted so that the metropolitan park district levy is reduced or eliminated before any other levies in this category are affected.

Votes on Final Passage:

House	97	0
Senate	41	0

Effective: July 23, 1995

SHB 1453

C 11 L 95

Providing for reserve officers' retirement.

By House Committee on Appropriations (originally sponsored by Representatives Foreman, Ogden, Chappell, Costa, Dickerson, Schoesler, Stevens and Radcliff).

House Committee on Appropriations
Senate Committee on Government Operations

Background: Local governments have the option of joining the Volunteer Fire Fighters' Relief and Pension Fund. The fund provides two kinds of benefits to volunteer fire fighters: 1) relief benefits providing medical and survivor needs, and 2) pension benefits providing for retirement.

Base retirement benefits are calculated for each member upon retirement. The base provides \$25 per month plus \$8 for each year in which contributions were made, not to exceed \$225 per month. A percentage factor based on years of service is then applied to the base in order to arrive at the monthly benefit.

The fund is administered by the State Board of Volunteer Fire Fighters who sets annual contribution rates. The total cost of providing the pension fund is \$109 per member for which members contribute \$30 per year, the municipality contributes \$30 per year, and the remaining cost is paid from the fire insurance premium tax.

No provisions exist for providing pension benefits to reserve law officers. Reserve law officers comprise 23 percent (2,349) of the state's law enforcement officers working in 172 cities in the state of Washington. There are currently 7,876 (77 percent) regular officers.

Summary: Local government reserve officers may join the pension benefits portion of the Volunteer Fire Fighters' Relief and Pension Fund. Members will be charged an annual \$30 fee and employers will be charged a fee which will be established by the Board of Volunteer Fire Fighters so as not to change current contribution rates or current funding structure. Prior service credit may be purchased. Reserve officers must complete at least three years of service after the bill's effective date to receive benefits.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 23, 1995

HB 1457

C 67 L 95

Renaming the commission on Asian Pacific American affairs.

By Representatives Veloria, Tokuda, Brumsickle, Regala, Conway and Huff; by request of Commission on Asian American Affairs.

House Committee on Government Operations
Senate Committee on Government Operations

Background: In 1972, the Asian-American Advisory Council was created by executive order. In 1974, the Legislature established the Asian-American Affairs Commission in the Office of the Governor to succeed the council. The commission consists of 12 members appointed by the Governor, who is directed to maintain a balanced distribution of Asian-ethnic, geographic, sex, age, and occupational representation on the commission.

The commission is responsible for examining and defining issues pertaining to the rights and needs of Asian-Americans, and for making recommendations to the Governor, the Legislature, and state agencies on desirable changes in programs and the law, as well as on program implementation. The commission conducts educational activities, publishes resource information, and helps to establish local community networks.

The commission has unanimously recommended that the name of the commission be changed to reflect the population changes that have occurred since the establishment of the commission in 1974.

Summary: The Asian-American Affairs Commission is renamed the Asian Pacific American Affairs Commission. The term "Asian Pacific Americans" is defined to include persons of Cambodian, Laotian, and other South Asian ancestry. The term "Asian Americans" is changed to "Asian Pacific Americans" in relevant statutes.

Votes on Final Passage:

House	97	0
Senate	43	0

Effective: July 23, 1995

HB 1465

C 181 L 95

Concerning the employee suggestion program.

By Representatives Silver and Sommers; by request of Secretary of State.

House Committee on Appropriations
Senate Committee on Government Operations

Background: The Productivity Board operates under the Office of the Secretary of State to administer the state employee suggestion program. The program encourages

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and rewards meritorious suggestions made by state employees.

Each year, the board is required to publish a topical list of all productivity awards granted and distribute the list to state government agencies who may be able to adapt them to their procedures.

Summary: The requirement to publish the productivity award list on an annual basis is repealed, permitting the required publication on an ad hoc basis.

Votes on Final Passage:

House	95	0
Senate	42	0

Effective: July 23, 1995

HB 1468

C 150 L 95

Modifying advisory council on historic preservation representation.

By Representatives Hymes, Reams and Chopp; by request of Department of Community, Trade, and Economic Development.

House Committee on Government Operations
Senate Committee on Government Operations

Background: The Office of Archaeology and Historic Preservation in the Department of Community, Trade and Economic Development is responsible for maintaining a state register of historic places, conducting analyses regarding nominations to the state and federal registers of historic places, establishing a program of matching grants for public and private preservation projects, and promoting historic preservation efforts. The State Advisory Council on Historic Preservation is responsible for reviewing and recommending nominations to the state and national registers of historic places, and advising the Governor and the department on matters related to historic preservation.

The nine members of the State Advisory Council on Historic Preservation include: (1) The director of either the Washington State Historical Society or the Eastern Washington State Historical Society, each serving for one year on a rotating basis; (2) six members of the public with experience in history, architecture, or archaeology; (3) a representative of the Washington archaeological community; and (4) a Native American.

Summary: The director of the Washington State Historical Society and the director of the Eastern Washington State Historical Society are removed as rotating members of the Advisory Council on Historic Preservation. That position on the council is to be filled by

a representative of a local or state heritage organization, to be appointed by the Governor.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 23, 1995

ESHB 1471

C 283 L 95

Regulating homeowners' associations.

By House Committee on Law & Justice (originally sponsored by Representatives Padden and Appelwick).

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

Background: A homeowners' association is an organization formed in a planned unit community or given homeowners' area to provide management and maintenance for common areas in the community, such as parks, lakes, roads, and community centers. Often these associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations typically impose and collect assessments on each owner of property in the community for the maintenance and repair of the common areas. In addition, homeowners' associations may adopt rules concerning property use in the community and may impose fines for violations of those rules.

Currently, there is no statutory law that specifically addresses the organization, management, and powers of homeowners' associations. Homeowners' associations may organize as nonprofit associations governed by their own rules and procedures. In addition, homeowners associations may organize as nonprofit corporations.

Nonprofit corporations are managed by a board of directors and officers. The powers of a nonprofit corporation include the power to sue and be sued, engage in property transactions, lend money, make contracts, and incur liabilities. A nonprofit corporation may not issue stock, make income disbursements to members, officers, or directors, or make loans or advance credit to directors or officers. If provided in the articles of incorporation, a nonprofit corporation may make and collect assessments based on the value of the property owned by members of the corporation.

Summary: A new chapter is created governing the formation and administration of homeowners' associations. A "homeowners' association" is a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction and who is obligated to pay real property taxes, insurance premiums,

maintenance costs, or improvement costs for real property other than that which is owned by the member. The membership of an association consists exclusively of the owners of all real property over which the association has jurisdiction.

The association's "governing documents" include the articles of incorporation, bylaws, plat, declaration of covenants, conditions, and restrictions, rules and regulations of the association, or other written instrument which authorizes the association to exercise powers over property under its jurisdiction.

The powers of an association include the power to: (1) adopt and amend bylaws, rules, and regulations; (2) adopt and amend budgets and impose and collect assessments for common expenses from owners; (3) make contracts and incur liabilities; (4) regulate the use, maintenance, repair, replacement, and modification of common areas; (5) acquire, hold, encumber, and convey interests in real property; and (6) impose and collect charges for late payments of assessments and levy reasonable fines for violations of the bylaws, rules, and regulations of the association. An association may only impose fines for violations of the bylaws, rules, or regulations of the association after notice and an opportunity to be heard.

Officers and directors of an association shall act in all instances on behalf of the association and shall exercise the degree of care and loyalty required of an officer or director of a nonprofit corporation. The board of directors shall not act on behalf of the association to amend the articles of incorporation, to take any action that requires the vote or approval of the owners, to terminate the association, to elect members of the board of directors, or to determine the qualifications, powers, and duties, or terms of office of members of the board of directors.

Any budget adopted by the board of directors may be rejected by a majority vote of the owners of the association, either in person or by proxy. The owners may remove any member of the board of directors with or without cause by a majority vote, in person or by proxy, at a meeting at which a quorum of the owners is present.

The bylaws shall provide for: (1) the number, qualifications, powers and duties, terms of office, and manner of election of the board of directors; (2) the manner of election of the officers by the board of directors; (3) which powers the officers or directors may delegate to a managing agent; and (4) the method of amending the bylaws.

The association must hold at least one meeting per year, and special meetings may be called by the president, a majority of the board of directors, or by owners having 10 percent of the votes in the association. Notice of the special meetings must be mailed at least 14 days, and no more than 60 days, in advance of the meeting and must contain the time, place, and purpose of the meeting. All meetings of the board of directors must be open for observation by all owners of record and their authorized agents. The board may meet in closed executive session to consider

certain matters upon an affirmative vote in open session. All actions passed or agreed to in closed session become effective only after the board reconvenes and votes on the action in open meeting.

The association is required to keep financial records and prepare an annual financial statement. Associations with annual assessments of \$50,000 or more shall be audited annually by an independent certified public accountant unless the owners vote to waive the audit. All records of the association are available for examination by all owners, holders of mortgages on the lots, and their respective agents on reasonable advance notice.

A violation of the act entitles an aggrieved party to any available legal or equitable remedy and, if appropriate, an award of reasonable attorney's fees.

Votes on Final Passage:

House	82	13	
Senate	44	4	(Senate amended)
House			(House refused to concur)
Senate	45	1	(Senate amended)
House	88	8	(House concurred)

Effective: July 23, 1995

SHB 1483

C 151 L 95

Revising provisions on the prevention and suppression of forest wild fires.

By House Committee on Natural Resources (originally sponsored by Representatives Pennington, Elliot, Stevens, Huff, Mielke, Johnson, L. Thomas, McMahan and Sheahan).

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: Current law assigns firefighting responsibilities both to the Department of Natural Resources and to local entities. The department's primary mission is to protect forest land and suppress forest fires. A primary mission of rural fire districts and municipal fire departments is to protect improved property and suppress structural fires. This distinction, however, grows more difficult to implement in practice as more people build residences in the forest and forest fires threaten these structures.

The department's firefighting priorities are to first save human lives, then real property, then natural resources.

Summary: A new section reiterates current law with regard to the respective firefighting missions of the department and of rural fire districts and municipal fire departments. The department's firefighting priorities are changed such that protecting forest resources and suppressing forest wild fires is second only to saving lives. The most effective way to protect structures is for the

HB 1495

department to focus its efforts and resources on aggressively suppressing forest wild fires.

The Legislature also acknowledges the natural role of fire in forest ecosystems and finds it to be in the public interest to use fire under controlled conditions to prevent wild fires by maintaining healthy forests and eliminating sources of fuel.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 23, 1995

HB 1495

C 325 L 95

Expanding timber excise tax small harvester option.

By Representatives Basich, Hatfield, Fuhrman, Sheldon, Foreman, Chappell, Mastin, Johnson and Morris.

House Committee on Natural Resources
House Committee on Finance
Senate Committee on Ways & Means

Background: Standing timber is exempt from property taxes but is subject to a 5 percent timber excise tax at the time of harvest.

The base of the 5 percent excise tax is the stumpage value of the standing timber. The "stumpage value" is the value of the standing timber without any deduction for logging or transportation costs. The Department of Revenue determines stumpage value tables for use by timber owners who harvest their own timber.

A "small harvester" is defined as someone who harvests 500,000 board feet or less in any quarter and one million board feet or less in any calendar year.

Small harvesters may calculate their timber excise tax in one of three ways: 1) use the Department of Revenue's stumpage value tables; 2) use the actual sales price of the standing timber; or 3) use the actual sales price minus costs of harvesting and marketing, if the timber is sold after harvest. If the landowner cannot document these costs, the deduction is determined by the department but cannot be less than 25 percent of the actual sales price.

Summary: The definition of small harvester is changed to one whose harvests do not exceed 2 million board feet in a calendar year.

Votes on Final Passage:

House	96	0
Senate	42	0

Effective: July 1, 1995

SHB 1497

C 326 L 95

Facilitating electronic access to public records.

By House Committee on Government Operations (originally sponsored by Representatives B. Thomas and Dyer).

House Committee on Government Operations
Senate Committee on Energy, Telecommunications & Utilities
Senate Committee on Ways & Means

Background: Public records are required to be preserved, stored, transferred, destroyed or disposed of, and managed in accordance with provisions of law.

The state archivist manages a division of archives and records management in the Office of the Secretary of State to insure the proper management and safeguarding of public records. The state archivist adopts rules for: (1) setting standards for the durability and permanence of state and local public records; and (2) establishing procedures to create, maintain, transmit, and reproduce photographic, optical, electronic, or other images used as public documents.

Summary: The state archivist is required to:

- Adopt rules for cataloging, indexing, and storing photographic, optical, electronic, and other images of public records;
- Adopt rules facilitating access to photographic, optical, electronic, and other images used as public records; and
- Assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, and other images used as public records.

Votes on Final Passage:

House	95	1	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

HB 1498

C 12 L 95

Extending the expiration date for the pollution liability insurance program.

By Representatives L. Thomas, Wolfe, Dyer, Dellwo, Huff, Tokuda, Basich, Kessler, Blanton, Beeksma, Mielke, Hatfield and Hymes.

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

Background: In 1986, Congress enacted legislation to regulate underground storage tanks (USTs) containing

petroleum products. The legislation directed the Environmental Protection Agency to develop a comprehensive regulatory program governing USTs, including providing standards for improving or upgrading USTs, correcting pollution from leaks from USTs, and obtaining liability insurance or an acceptable insurance substitute covering liability for clean-up and third-party damages.

After reviewing several proposals to assist owners of USTs in complying with federal financial responsibility regulations, the Legislature created a state pollution liability reinsurance program in 1989. The program provides insurance to insurance companies (reinsurance) that in turn provide insurance to UST owners and operators. The program is administered by the Pollution Liability Insurance Agency (PLIA).

The state reinsurance program's objective is to improve the availability and affordability of pollution liability insurance for owners of USTs by selling reinsurance at a price significantly below the private market price for similar reinsurance. This discount is passed onto owners and operators of USTs through reduced insurance premiums and increased availability of insurance.

To fund the program, the Legislature imposed a petroleum products tax of one half of one percent on the first possession of any petroleum product in the state. Proceeds from the tax are deposited into the Pollution Liability Insurance Program Trust Account to fund the reinsurance program. Collection of this tax must cease whenever the account balance exceeds \$15 million and collection may resume when the balance drops below \$7.5 million. The tax has not been collected since July 1992.

In 1991, the Legislature established the Underground Storage Tank Community Assistance Program (USTCAP) in PLIA to provide financial assistance to public and private owners and operators of USTs that have been certified by the governing body of the county, city, or town in which the USTs are located as meeting vital local government or public health and safety needs.

PLIA expires on June 1, 1995.

Summary: The Pollution Liability Insurance Agency (PLIA) is extended until June 1, 2001. PLIA must publish annually a financial report on the Pollution Liability Insurance Program Trust Account.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: April 12, 1995

HB 1501

C 152 L 95

Correcting double amendments related to insurance examination expenses.

By Representatives L. Thomas, Wolfe, Huff, Dellwo and Kessler; by request of Law Revision Commission.

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

Background: A state statute requires that examinations of insurance companies headquartered in Washington by the Office of the Insurance Commissioner (OIC) be done at the expense of the OIC except for fees, mileage, and witnesses. This statute makes other provisions regarding examination expenses.

In 1993, this statutory provision was amended by two separate bills that were enacted into law. There are technical conflicts created by this double amendment. These technical conflicts include: (1) references to "commissioner's" in one bill and "his or her" in the other; and (2) a reference to the board overseeing state personnel is "Washington Personnel Resources Board" in one bill and "State Personnel Board" in the other. In 1993, the State Personnel Board was joined with the Higher Education Personnel Board and renamed the Washington Personnel Resources Board.

The Law Revision Commission is a commission comprised of 13 members that, among other things, recommends to the Legislature elimination of antiquated laws and correction of other defects such as double amendments. The Law Revision Commission recommends that the examination expense statute be corrected by using "commissioner's" instead of "his or her" and that the correct reference to Washington Personnel Resources Board be used.

Summary: The inconsistent provisions in the statute governing examination expenses incurred by the Office of the Insurance Commissioner, caused by double amendments in 1993, are corrected by recodifying the statute and making technical changes. The recodification uses "commissioner's" instead of "his or her" and uses the correct reference to the Washington Personnel Resources Board.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 23, 1995

SHB 1507

C 182 L 95

Requiring a process to solicit proposals for and prioritize heritage capital projects.

By House Committee on Capital Budget (originally sponsored by Representatives Ogden, Radcliff, Jacobsen, Brumsickle, Chopp and Dickerson; by request of Washington State Historical Society).

House Committee on Capital Budget
Senate Committee on Government Operations

Background: Two state historical societies are charged with the preservation of materials of historical interest in Washington State: the Washington State Historical Society (WSHS) and the Eastern Washington Historical Society (EWHS). WSHS operates two museums: the State History Museum in Tacoma, and the State Capital Museum in Olympia. EWHS operates the Cheney Cowles Museum and the historic Campbell House in Spokane. Capital projects within these museums are supported by a combination of state appropriations and private contributions.

In addition to the state-chartered historical societies, many community-based public and non-profit entities across the state maintain records, artifacts, and sites concerning the heritage and history of the state. Currently, no state grant program exists to support the capital facilities needs of these entities.

Summary: The Washington State Historical Society (WSHS) must establish a process to solicit and prioritize heritage capital projects for potential funding in the state capital budget. Local governments, public development authorities, nonprofit corporations, tribal governments, and other entities, as determined by WSHS, may apply for funding.

WSHS must adopt rules governing project eligibility and evaluation criteria and must recommend a prioritized list of heritage capital projects to the Governor and Legislature by September 1 of each even numbered year, beginning in 1996. The list must be developed through open public meetings with advice of leaders in the heritage field, including but not limited to the Office of the Secretary of State, the Eastern Washington Historical Society, and the State Office of Archaeology and Historic Preservation. The Governor and Legislature may consider the list when appropriating capital funds for heritage projects beginning with the 1997-99 fiscal biennium.

Votes on Final Passage:

House 96 0
Senate 41 0

Effective: July 23, 1995

ESHB 1512

C 106 L 95

Expanding the adopt-a-highway program.

By House Committee on Transportation (originally sponsored by Representatives Romero, Chandler, Patterson, Quall, Tokuda, D. Schmidt, Skinner, Chopp, Elliot, Johnson, Ogden, Scott, Blanton, Brown, Hatfield, R. Fisher, Basich, Sheldon, Appelwick, Dellwo, Wolfe, Rust, Regala, Chappell, Kremen, Dickerson, Kessler, Costa, Poulsen and Cody).

House Committee on Transportation
Senate Committee on Transportation

Background: In 1990, the Department of Transportation (DOT) began its adopt-a-highway program. Under the program, participating volunteers agree to remove litter from designated two-mile stretches of highway at least four times each year for a period of two years.

The DOT provides signs identifying the volunteers, safety equipment and training, and trash bags. The DOT is responsible for disposal of the litter collected.

Summary: The Department of Transportation (DOT) is authorized to augment the adopt-a-highway program to include activities such as planting and maintaining vegetation, controlling weeds, removing graffiti and performing other roadside improvement or clean-up activities.

Volunteer groups or businesses choosing to participate in the program must submit a proposal requiring approval by DOT. The DOT shall not accept proposals that would have the effect of terminating classified employees or classified employee positions.

Participating groups may adopt more than one section of state highway or other state-owned transportation facility.

The DOT is authorized to solicit funding for the adopt-a-highway program that allows private entities to undertake all or a portion of financing for the initiatives.

Participating businesses, who pay their employees or agents to perform adopt-a-highway activities, shall be responsible for industrial insurance medical aid benefits as required by Title 51 RCW.

Votes on Final Passage:

House 96 0
Senate 45 0

Effective: July 23, 1995

SHB 1517

C 212 L 95

Revising guidelines for receipt and expenditure of federal and private funds by local governments.

By House Committee on Capital Budget (originally sponsored by Representatives L. Thomas, Rust, Horn, Sommers and Ballasiotes).

House Committee on Capital Budget
Senate Committee on Government Operations

Background: The federal government provides funding through a variety of programs to support local economic development activity. These federal programs generally involve block grants and loan guarantees to local governments that may be used to finance private business and real estate development. The Washington State Constitution prohibits state and local government resources from being used for private purposes under the "lending of credit" provisions. These restrictions, however, do not apply to federal money.

Virtually all the economic development lending and financing programs working in Washington state are funded from federal resources where state and local government is acting as the pass-through or "conduit" to private development.

Local governments have expressed an interest in leveraging the federal money for economic development purposes by issuing bonds or notes and pledging future federal grants as payment on the bonds. These types of debt arrangements are referred to as "conduit" financing. Even though local government funds are not involved in these financial transactions, local governments need specific statutory authority to take advantage of conduit financing.

Summary: Counties, cities, towns and public corporations are authorized to engage in federally guaranteed "conduit financing." Specifically, local governments may issue bonds or other instruments of debt and pledge future federal and private grants, payments or property to repay the debt.

The local government may establish special accounts for the receipt and payment of bonds and may contract with a financial institution to act as trustee for the account.

Conduit financing may be used to finance any public or private purpose authorized by section 108 of the federal housing and community development act. Any obligation for repayment of bonds or loans is only payable from the special accounts or other security pledges and is not the obligation of the local government. Conduit financing is not counted toward any local government debt limits. Any debt financing, consistent with this authority issued by a local government prior to the effective date of this bill, shall be considered valid.

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	94	2	(House concurred)

Effective: May 3, 1995

ESHB 1518

C 284 L 95

Authorizing clock hours for teachers participating in internships.

By House Committee on Education (originally sponsored by Representatives Thompson, Lambert, Talcott, Brumsickle, Elliot, Radcliff, D. Schmidt, Pelesky, Padden, Veloria, Dickerson, McMahan, Quall, Johnson, Basich and Mason).

House Committee on Education
Senate Committee on Education

Background: Business leaders, educators, parents, and others have been concerned that public school curriculum needs to be more relevant to the future careers of students, and that teachers lack knowledge regarding the day-to-day issues and operations of business, industry, and government.

To encourage teachers to become more familiar with business, industry, and government, it has been recommended that teachers be able to receive "clock hour" credit on the state's salary allocation schedule when they complete internships with these organizations. These credits can be used for future salary increases and for meeting the continuing education requirement required for teacher certification since 1987.

Summary: Certificated personnel who participate in an approved internship may receive the equivalent of one college quarter credit on the statewide salary allocation schedule for every 40 hours of participation in the internship. The internship must be with a business, an industrial firm, or government.

The State Board of Education is directed to establish rules for participation in the internships. To receive credit, the individual must demonstrate that the internship will provide beneficial skills and knowledge in an area directly related to his or her current assignment, or to his or her assignment for the following school year. Only credits earned in internships after December 31, 1995, may be counted.

An individual may not receive more than the equivalent of two college quarter credits for internships annually, nor more than a total of 15 credits during the individual's career.

The Legislative Office on Performance Audit and Fiscal Analysis is required to conduct a study of the effectiveness of internship credits compared to inservice and academic credits. Results are to be available by December 15, 1997.

2SHB 1524

Votes on Final Passage:

House	93	3	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

2SHB 1524

C 355 L 95

Changing weights and measures regulations.

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Mastin and McMorris).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Agriculture & Agricultural Trade & Development

Senate Committee on Ways & Means

Background: In general, all weighing or measuring instruments or devices used for commercial purposes in this state must be inspected and tested for accuracy by the Department of Agriculture or by a city sealer. They must be inspected and tested at least once every two years. Instruments and devices that conform to the applicable standards and requirements are considered to be "correct." Those that do not are considered to be "incorrect."

An instrument or device found to be incorrect may not be used again commercially until it has been officially re-examined and found to be correct. It may be repaired or adjusted by a private service agent. A private service agent, however, lacks authority to provide the official inspection necessary to return a previously rejected instrument or device to commercial use.

An inspection fee may be charged only for an instrument or device approved as correct. Before an inspection fee or amended fee is set, the director must consult a Weights and Measures Fee Task Force.

The weights and measures statutes are nonexclusive and do not affect any other remedy available at law.

Summary: Annual Registration Fee Rather Than Inspection Fee. A weighing or measuring instrument or device used for commercial purposes outside of a city with a weights and measures program must be registered annually with the Department of Agriculture. If its use is in a city with a weights and measures program, the instrument or device must be registered with the city if the city establishes a registration fee.

The fee for registering most small instruments or devices with the state is \$5. The registration fees for other devices, except railroad track scales, range from \$10 to \$52. The registration fee for railroad track scales is \$800. A city with a city sealer may charge a registration fee that is no greater than the comparable fee for registering the use of the instrument or device with the state. Registration

with the state is accomplished and registration fees are paid through the Department of Licensing's master license system.

In general, the authority of the department or a city sealer to charge inspection fees is repealed. The department and city sealers are authorized to charge fees for conducting inspections that are specifically requested by the owner of an instrument of device, on a fee-for-service basis.

Biennial Inspections No Longer Required. State law no longer requires instruments and devices in the private sector to be inspected and tested biennially. Instead, the department and city sealers test and inspect instruments and devices to ensure that the weights and measures laws are enforced.

Rejection of Instruments. An instrument or device is not to be rejected (i.e., officially required to be removed from commercial service) if it is incorrect to the economic benefit of the customer. A rejected instrument or device may be returned to commercial service following an inspection by a registered service agent, not just the department or a city sealer as under current law.

Registration of Service Agents. To have the authority to return a rejected instrument or device to commercial use, a private service agent must be registered annually with the department. Information required to be submitted for a registration certificate is specified; the director may require additional information. The registration fee is \$80. The circumstances under which the department may refuse to issue a certificate or suspend or revoke a certificate are specified.

Price Verification Devices. An examination procedure for price verification is established for devices such as scanners. Certain recommendations made at the national level for examining these devices are adopted by reference. If these are modified when procedures are adopted by the National Institute of Standards and Technology or if they are subsequently modified by the institute, the department may adopt the revisions. Scanner screens installed in retail establishments after January 1, 1996, must be visible to customers in the check-out line.

Penalties. An owner's failure to register an instrument or device that must be registered subjects the owner to a civil penalty of \$50 for each such unregistered device. A schedule of civil penalties is established for instruments and devices found to be incorrect to the detriment of the customer. Civil penalties collected under the weights and measures law are deposited in the general fund. It is a violation of these laws knowingly to place back into commercial service a rejected weighing or measuring instrument or device that is incorrect.

Other. The department is directed to establish fees to recover at least 75 percent of the costs of services performed by its metrology lab. Monies collected under the weighmaster laws are deposited in the Weights and Measures Account. This account is placed within the

Agricultural Local Fund and is not subject to appropriation. The account may be used for enforcing and implementing the weights and measures law, not just for inspections and testing. Biennial reports are required regarding revenues generated under these laws. A task force is to be established to examine the issue of civil and criminal penalties for weights and measures violations and the disclosure of these penalties to the media. The task force is to submit recommendations to the law and justice committees of the Legislature by November 30, 1995. This bill is prospective in nature only.

Votes on Final Passage:

House	77	20	
Senate	48	0	
House			(House refused to concur)
Senate			(Senate receded)
Senate	46	0	(Senate amended)
House	94	0	(House concurred)

Effective: July 23, 1995
 July 1, 1995 (Sections 2-6 and 8-25)
 January 1, 1996 (Sections 1 and 7)

HB 1525

C 107 L 95

Lowering the number of items provided by banks for customers' examination of negotiable instruments.

By Representatives L. Thomas, Beeksma, Benton, Smith and McMahan.

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

Background: In 1993, Uniform Commercial Code Articles 3 and 4 were substantially revised in accordance with recommendations of the National Conference of Commissioners on Uniform State Laws. The effective date of these changes was July 1, 1994.

One of the provisions adopted in 1993 requires banks to provide five copies of items on a customer's statement of account free of charge. The charge for any item over five is 50 cents plus retrieval fees (not to exceed the rate assessed when retrieving documents under an Internal Revenue Service summons). "Bank" is defined to include commercial bank, savings bank, savings and loan association, credit union, and trust company.

Summary: Banks and other financial institutions must provide two, rather than five copies of items on a customer's statement of account free of charge.

Votes on Final Passage:

House	47	50
House	80	16
Senate	36	8

Effective: July 1, 1995

ESHB 1527

C 348 L 95

Recognizing veterans of World War II.

By House Committee on Appropriations (originally sponsored by Representatives Benton, Clements, Koster, Dellwo, Campbell, Boldt, Kessler, Wolfe, Mielke, Thompson, Delvin, Carlson, Pelesky, D. Schmidt, Chopp, Van Luven, R. Fisher, Hickel, Sehlin, Costa, Ballasiotes, Pennington, Radcliff, Carrell, Hatfield, Romero, B. Thomas, Beeksma, Cody, Cooke, Dickerson, Conway, Jacobsen, Basich, Hargrove, L. Thomas, Chandler, Kremen, Robertson, Johnson, K. Schmidt, Smith, Dyer, Elliot, Blanton, Goldsmith, Mulliken, Schoesler and Brumsickle).

House Committee on Appropriations
 Senate Committee on Government Operations

Background: Current law establishes two veterans' memorials, one for state residents who died or are missing-in-action in Southeast Asia (the Vietnam War memorial), and one for state residents who died or are missing-in-action in the Korean conflict (The Korean memorial).

The Secretary of State was directed to coordinate the design, construction, and placement of the Vietnam War memorial. The director of the Department of Veterans' Affairs was directed to coordinate the design, construction, and placement of the Korean memorial.

Summary: The Department of Veterans Affairs is to convene an advisory committee to make recommendations to the department on a memorial to the men and women of Washington State who served in World War II.

The amount of \$50,000 is appropriated to the Department of Veterans Affairs for the purpose of erecting the monument on the state capitol campus.

Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 23, 1995

HB 1532

C 183 L 95

Modifying certification of mental health counselors.

By Representatives Dyer, Dellwo, Ballasiotes, Cody, Cooke and Thibaudeau.

House Committee on Health Care
 Senate Committee on Human Services & Corrections
 Senate Committee on Health & Long-Term Care

Background: Mental health counselors who meet the qualifications specified by law may apply for certification

by the Department of Health, and may use the title of "certified mental health counselor" in connection with their practice.

Generally, applicants must possess at least a master's degree in mental health counseling or equivalent semester hours in a substantially equivalent field, as well as postgraduate supervised practice. They must also pass an examination and have 24 months of postgraduate professional experience in a mental health setting.

However, initial applicants for certification who possessed at least a master's degree in mental health counseling and who applied within 18 months of July 26, 1987 (the effective date of the original law), qualified for the examination notwithstanding the supervised practice requirement. Also, no examination, education, postgraduate practice or experience was required of any initial applicant for a year following July 26, 1987, as a condition for certification. These initial qualification provisions are now obsolete.

Certified mental health counseling is defined as a service emphasizing the maintenance of wellness rather than the treatment of illness.

There is no requirement for continuing education for mental health counselors.

Summary: The qualifications for certification of mental health counselors are clarified, and include a behavioral science master's or doctoral degree in a related field with the program equivalency determined by the Secretary of Health, as well as two years of postgraduate supervised practice.

The definition of certified mental health counseling is augmented to include the assessment, diagnosis, and treatment of mental and emotional disorders.

The Secretary of Health is authorized to adopt rules requiring mandatory continuing education.

Obsolete provisions are repealed.

Votes on Final Passage:

House	93	0
Senate	40	0

Effective: July 23, 1995

HB 1534

C 356 L 95

Changing the registration requirements relating to professional land surveyors and engineers.

By Representatives Cairnes, Romero, Lisk and Cody.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: Engineers and land surveyors must register with the Department of Licensing before engaging in the "practice of engineering" or the "practice of land surveying." Engineer registration is divided into two

categories, "professional engineer" and "engineer-in-training." For land surveyors, there is no category of registration equivalent to "engineer-in-training."

A "professional engineer" must have eight years or more of specific work experience approved by the Board of Registration for Professional Engineers and Land Surveyors and must have passed an examination prescribed by the board. Graduation from a school or college with an approved engineering curriculum of four years or more is considered the equivalent of four years of work experience. Each year, up to four years, in an approved program is considered the equivalent of one year of experience.

An "engineer-in-training" must have at least four years of experience as required for a professional engineer and must have passed the first part of a two-part examination.

A "professional land surveyor" must have six years or more of specific work experience approved by the board and must have passed an examination prescribed by the board. Graduation from an approved curriculum of four years or more is considered the equivalent of four years of work experience.

In Washington, engineers and land surveyors who retire do not have a special license status. They simply choose to continue renewing their license or allow it to become delinquent.

Summary: The registration provisions relating to land surveyors are amended to make the land surveyor registration requirements roughly equivalent to the engineer registration requirements.

A "professional land surveyor" must have eight years or more of specific work experience and must have passed an examination prescribed by the Board of Registration for Professional Engineers and Land Surveyors. Graduation from an approved curriculum of four years or more is considered the equivalent of four years of work experience. Approved postgraduate college courses shall be considered for up to one additional year of experience.

A new category of registrant, a "land surveyor-in-training," is created. A "land surveyor-in-training" must have at least four years of experience as required for a professional land surveyor and must have passed the first part of a two-part examination.

The examinations for "engineer-in-training" and "land surveyor-in-training" registration may be taken after the applicant has achieved senior standing at an approved school.

The Board of Registration for Professional Engineers and Land Surveyors may create a special license status for retired professional engineers and land surveyors and may exempt them from payment of any license renewal fee.

Votes on Final Passage:

House	97	0	
Senate	45	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 1, 1996

SHB 1547
PARTIAL VETO
C 327 L 95

Pertaining to longshore and harbor workers' compensation.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Dellwo, Kessler, Dickerson, Basich and Costa).

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

Background: Federal law requires that employers of longshore and harbor workers obtain workers' compensation coverage for their employees. Longshore and harbor workers currently are not eligible for coverage under the Washington State Workers' Compensation Insurance Program.

The Legislature adopted a temporary insurance plan in 1992 to provide needed insurance for those employers unable to obtain coverage in the private market for their longshore and harbor workers. This state plan, called the United States Longshore and Harbor Workers Assigned Risk Plan, was extended in 1993 for two years. Currently, under the plan, all insurers writing longshore and harbor workers' compensation insurance and the state Department of Labor and Industries' workers' compensation fund participate in underwriting the losses for this coverage. Liability for plan losses is split equally between private insurers writing longshore and harbor workers' compensation insurance and the state workers' compensation fund. Premiums are not paid to the state workers' compensation fund for this potential liability. The state workers' compensation fund is authorized to reinsure the longshore and harbor workers' plan.

An advisory committee was established in 1992 to report annually on the plan and study alternatives to the plan.

The program is scheduled to expire July 1, 1995.

Summary: The temporary Washington State assigned risk plan covering United States Longshore and Harbor Workers is extended for another two years and now is to expire on July 1, 1997. The advisory committee is to report annually to the Legislature regarding the plan.

Votes on Final Passage:

House	97	0	
Senate	44	1	(Senate amended)
House			(House refused to concur)
Senate	40	0	(Senate receded)

Effective: May 11, 1995

Partial Veto Summary: The veto removes changes made to the duties of the advisory committee (the advisory committee is repealed in ESHB 1107).

VETO MESSAGE ON HB 1547-S

May 11, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute House Bill No. 1547 entitled:

"AN ACT Relating to longshore and harbor workers;"

This legislation extends the Temporary Washington State/United States Longshore and Harbor Workers Assigned Risk Plan to July 1, 1997.

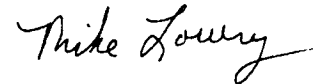
Section 1 of this bill refers to the reporting obligations of the advisory committee which assists in overseeing the plan. However, I have already signed Engrossed Substitute House Bill No. 1107 which eliminates numerous state boards, commissions, and committees, including the committee referenced in section 1 of Substitute House Bill No. 1547.

I am nonetheless committed to the fair and effective oversight of this plan. In this regard, I am, by separate instrument, directing the Department of Labor and Industries to establish an ad hoc committee to continue in an advisory and reporting role.

For these reasons, I am vetoing section 1 of Substitute House Bill No. 1547.

With the exception of section 1, Substitute House Bill No. 1547 is approved.

Respectfully submitted,



Mike Lowry
Governor

SHB 1549

C 108 L 95

Creating a sentencing alternative for drug offenders.

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Morris, Wolfe, Campbell, Quall, Backlund, Dyer and Blanton; by request of Sentencing Guidelines Commission).

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

Background: A person commits a felony by manufacturing, delivering, or possessing with intent to manufacture or deliver a Schedule I or II narcotic drug. Schedule I or II narcotic drugs include cocaine and heroin.

The sentence for this felony is governed by the Sentencing Reform Act (SRA). Under the SRA, the length of this offender's sentence depends primarily on two factors: the seriousness level of the offense and the extent of the offender's criminal history. These factors determine the offender's standard range of confinement.

A sentencing judge may impose a sentence within the standard range. If the judge finds substantial and compelling reasons to justify departing from the standard range, the judge may instead impose a sentence above or below the standard range.

Offenders who manufacture, deliver, or possess with intent to deliver a Schedule I or II narcotic drug may be eligible for the work ethic camp. Eligibility depends on whether the offense is classified as a "violent offense," which in turn depends on the exact circumstances of the offense and the offender's criminal history.

Offenders committing this felony involving narcotic drugs are not eligible for the first-time offender waiver. The first-time offender waiver is available, however, for offenders who commit the different offense of manufacturing, delivering, or possessing with intent to deliver methamphetamine.

Offenders who manufacture, deliver or possess with intent to deliver a Schedule I or II narcotic drug are eligible to participate in a prison work release program during their final six months of confinement. Offenders committing this felony also receive a mandatory one-year period of community placement following their incarceration. Community placement is a form of community supervision. Throughout the period of community placement, the offender is subject to further penalties for violating sentence conditions. A portion of the time on community placement can be spent under the more restrictive conditions of community custody.

Summary: A new Drug Offender Sentencing Alternative (DOSA) is established for offenses involving the manufacture or delivery of Schedule I or II narcotic drugs. For eligible offenders this alternative provides treatment-oriented sentences involving shorter periods of prison confinement.

Eligibility. An offender is eligible to be considered for the special drug alternative if:

- (1) the offender is convicted of manufacturing, delivering, or possessing with intent to manufacture or deliver Schedule I or II narcotics, or a felony anticipatory offense (attempt, solicitation, or conspiracy) to commit such an offense;
- (2) the sentence does not include a deadly weapon enhancement;
- (3) the offender has no prior felony convictions;
- (4) the offense involved only a small amount of drugs, as determined by the judge;
- (5) the judge determines that the offender and the community will benefit from imposing the special alternative; and
- (6) the mid-point of the offender's standard range must exceed one year.

Discretion to Impose Sentencing Alternative. The sentencing judge has discretion to sentence an eligible offender under this drug offender sentencing alternative. The sentencing judge, however, is not required to use this

alternative. The sentencing judge still has authority to punish the offender with a standard sentence, an exceptional sentence, or an applicable sentencing alternative.

Confinement. An offender being sentenced under the special drug offender sentencing alternative is sentenced to total confinement in a state facility for a period equal to one-half of the mid-point of the offender's standard sentence range. For example, an offender whose standard range is 21-27 months would be confined in a state facility for 12 months (one-half of the range's mid-point of 24 months).

In-prison assessment/treatment. While in prison the offender will undergo substance abuse assessment and will receive, within available resources, appropriate treatment services. The treatment services will be designed by the Division of Alcohol and Substance Abuse, in cooperation with the Department of Corrections.

Work release. If the mid-point of the offender's standard range is 24 months or less, then work release is limited to a maximum of three months.

Community Custody. Offenders receive one year of concurrent community custody and community supervision, which must contain crime-related prohibitions, including a requirement to undergo outpatient substance abuse treatment, a condition not to use illegal controlled substances and a requirement to submit to drug testing to monitor that status. The monitoring may be performed by the Department of Corrections or a Treatment Alternative to Street Crime (TASC), or a program similar to TASC's. The offender may be required to pay \$30 to offset these monitoring costs. The judge must also impose three or more of the following conditions requiring that the offender:

- (1) hold a particular job or undergo training;
- (2) remain in a certain geographical area and report changes in address or employment;
- (3) report to a community corrections officer;
- (4) pay court-ordered legal financial obligations;
- (5) perform community service work;
- (6) stay away from locations designated by the judge.

Violations. The Department of Corrections, with notice to the prosecutor and sentencing court, will impose administrative sanctions on offenders who violate the conditions of sentence. If the prosecutor or the court is not satisfied with the sanctions, a court hearing may be held to address the violation. If the court finds the offender willfully violated the conditions, the court may impose confinement of up to the remaining one-half of the mid-point of the standard range.

Impact Analysis. The sentencing guidelines commission shall evaluate the impact of the drug offender sentencing alternative. The evaluation shall include analysis of the changes in sentencing practices, the effect on the state prison population, the effectiveness of treatment services, the savings in state resources, and the effect on recidivism rates.

Methamphetamine. The first-time offender waiver is no longer an available sentencing option for an offender who manufactures, delivers or possesses with intent to deliver methamphetamine.

Additional technical corrections are made.

Votes on Final Passage:

House	92	5
Senate	43	0

Effective: April 19, 1995

EHB 1550

C 184 L 95

Allowing warrantless arrest for criminal trespass.

By Representatives Smith, Scott, Blanton, Benton, Campbell, Mielke, Huff, Lambert, Sheahan, Robertson, Carrell, McMahan, Padden, Delvin, Thompson and Kremen.

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

Background: A person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building. A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises, other than a building, that belong to another. Criminal trespass in the first degree is a gross misdemeanor, and criminal trespass in the second degree is a misdemeanor.

A police officer requires a warrant to arrest a person without a warrant for committing a misdemeanor or gross misdemeanor, unless the crime is committed in the presence of the officer or is exempted from the warrant requirement by statute. Even if no warrant is required, the officer must still have probable cause before making an arrest.

Under current law, a police officer must obtain a warrant to arrest a person for the commission of criminal trespass in the first or second degree.

Summary: Misdemeanors and gross misdemeanors involving criminal trespass in the first and second degree are added to the list of crimes for which police officers do not need a warrant to make an arrest, so long as probable cause exists. Law enforcement agencies and local governments are encouraged to develop arrest and charging guidelines for criminal trespass.

Votes on Final Passage:

House	98	0
Senate	40	2

Effective: January 1, 1996

HB 1553

C 185 L 95

Concerning the proper form of certain ballot titles.

By Representative L. Thomas; by request of Attorney General.

House Committee on Government Operations
Senate Committee on Government Operations

Background: When a proposed constitutional amendment or other measure is submitted to a vote of the people, the Attorney General is required to prepare a concise statement of not more than 20 words, posed as a question, containing the essential features of the measure. This concise statement constitutes the ballot title.

Referendum bills are bills enacted and sent to the people by the Legislature. When a petition has been filed against a state legislative enactment, it is called a referendum measure. In 1993, legislation was enacted that increased the number of words allowed in the concise statement to 25 for referendum measures filed against state legislative enactments.

Summary: The number of words allowed in the Attorney General's concise statement for constitutional amendments, initiatives, and referendum bills is increased from 20 to 25.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 23, 1995

E2SHB 1557

C 285 L 95

Combatting insurance fraud.

By House Committee on Appropriations (originally sponsored by Representatives L. Thomas, Dellwo, Mielke, Wolfe, G. Fisher, Blanton and Poulsen; by request of Insurance Commissioner and Attorney General).

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

Background: Washington has several provisions in current law regarding insurance fraud. It is unlawful for an agent or broker to make a false statement on an application for insurance. The insurance contract may be voided if the insured obtained insurance by providing a fraudulent application. It is unlawful for any person to make a false claim for benefits under an insurance policy in general and for health care in particular. Willful destruction of insured

property is a felony. Immunity is provided for disclosing information regarding arson.

Summary: Current laws are modified or expanded to address insurance fraud, and new provisions are added regarding anti-rebating laws and anti-fraud plans by insurance companies.

In addition to requiring proof of loss when filing an insurance claim, an insurance company may require that the claimant be examined under oath. The current provision making it unlawful for an agent or broker to make a false statement on an application for insurance is expanded to cover all persons and includes making misleading statements. The Arson Reporting Immunity Act is amended to become the Insurance Fraud Reporting Immunity Act; immunity is provided for disclosing information regarding insurance fraud.

New crimes are defined for commercial bribery, rebates relating to insurance claims, and trafficking in insurance claims, while the following crimes are expanded or the seriousness level increased: unlawful practice of law, unlicensed practice of a profession or business, and health care false claims.

It is unlawful to direct or refer a person with an insurance claim to a provider of health, automotive repair, or insurance claim services unless the conduct is purely social or gratuitous, is authorized by business and professional statutes or rules, or is done as part of a group-buying arrangement. A provider of health, automotive, or insurance claim services cannot engage in the regular practice of waiving, rebating, or paying an insurance claimant's insurance deductible. A single violation of these provisions is a gross misdemeanor, and subsequent violations are a class C felony. Injunctive relief is available for violation or threatening to violate anti-fraud provisions. When a person is found by a court to have violated certain anti-fraud provisions, the attorney general or prosecuting attorney must provide written notice of the judgment to the appropriate regulatory or disciplinary body.

Every insurance company licensed to write property and casualty insurance in Washington must prepare and maintain an insurance anti-fraud plan. The company must file the plan with the Insurance Commissioner for approval. Insurance companies must report to the commissioner annually regarding their anti-fraud efforts.

The Washington State Bar Association is requested to submit to the Legislature by November 1995 a report on the recommendations of its task force on nonlawyer practice.

Votes on Final Passage:

House	64	29	
Senate	48	0	(Senate amended)
House	92	3	(House concurred)

Effective: July 1, 1995

Penalizing fuel tax evasion.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt and Blanton; by request of Attorney General).

House Committee on Transportation
Senate Committee on Law & Justice

Background: It is a gross misdemeanor for a fuel tax distributor to evade paying motor vehicle fuel or special fuel taxes. The maximum penalty is \$5,000 and one year in jail. In addition, the guilty party must pay the taxes owed, interest at 1.0 percent per month, and a penalty of 2.0 percent of taxes owed for motor vehicle fuel taxes and 10 percent for special fuel taxes. The statute of limitations pertaining to fuel tax evasion is two years.

A task force established by the Attorney General looked into economic crimes. The task force determined that the state is very likely losing substantial revenue through criminal evasion of motor vehicle fuel taxes. One problem that the task force discovered was that investigations of fuel tax evasion often take longer than the existing two-year statute of limitations to develop sufficient evidence to bring criminal charges. It was also felt that the amount of money involved justifies making this crime a felony with more serious penalties to deter future evasion.

Summary: Intentionally evading the payment of motor vehicle fuel and special fuel taxes is a Class C felony. As a Class C felony, a fine of up to \$10,000 and imprisonment of up to five years may be imposed. A person or corporation convicted under this law must pay the tax evaded plus interest at a rate of 12 percent per year and a penalty of 100 percent of the tax evaded. The 100 percent penalty is deposited in the state transportation fund. The statute of limitations for this crime is five years.

Votes on Final Passage:

House	94	0	
Senate	39	8	(Senate amended)
House			(House refused to concur)
Senate	37	3	(Senate receded)
Senate	46	1	(Senate reconsidered)
House	96	0	(House concurred)

Effective: July 23, 1995

2E2SHB 1566

C 6 L 95 E1

Changing health care authority responsibilities.

By Representative Dyer; by request of Health Care Authority.

House Committee on Health Care
House Committee on Appropriations

Background: The Health Care Authority (HCA) is state government's purchaser of health insurance for its employees and retirees, for enrollees in the Basic Health Plan and for other public employee groups who choose to use the HCA as their health insurance purchasing agent. At the present time, the HCA purchases health insurance for approximately 400,000 people.

Under the 1993 Health Services Act, the HCA is designated as the state's consolidated health care purchasing agent and required to purchase health insurance for school district employees and retirees beginning in October 1995.

Upon enactment of authorizing legislation, the HCA must also assume purchasing responsibility for certain portions of the state Medicaid program and prisoner health services. The HCA must also pursue various managed competition purchasing strategies in an effort to maximize the value the state receives in its purchase of health insurance.

HCA administers the Caregivers Program which enables nonprofit agencies to purchase health insurance through the state. At present, however, fewer than 50 people have enrolled.

In connection with the 1993 Health Services Act's employer mandate, the HCA was directed to establish a depository for employer contributions made on behalf of part-time workers. However, the depository will be most useful to employers if the state receives approval under the federal Employee Retirement Income Security Act to implement employer-mandated benefits.

Under federal income tax law, employers may establish benefit plans (cafeteria plans or flexible benefit plans) that enable employees to receive certain employee benefits using "before-tax" dollars.

Summary: The requirement for school district employees to purchase benefits through the Health Care Authority beginning October 1995 is deleted. These employees may purchase benefits from the HCA if the authority agrees to provide the insurance. Districts who do not purchase benefits through the HCA must continue to remit a subsidy for retired school employee's coverage to the HCA. Public employees are given the choice to waive state sponsored health insurance coverage. The requirement to structure employee premium shares to take into account household income when the state contribution is less than 100 percent of the premium cost is deleted. Changes or increases in employee point-of-service payments or premium payments for benefits are not prohibited. Payroll deduction of state

employee premium contributions is authorized without written consent of the employee.

The requirement to place the Basic Health Plan, state employees, school district employees, retirees, prisoner health services, and some Medicaid programs in a single, community-rated risk pool is deleted. (The state will continue to seek appropriate federal waivers and pursue other strategies to improve the state's purchasing power.) As the state health services purchasing agent, the HCA must ensure the control of benefit costs under managed competition through rules limiting employer and employee agreements that would result in increased utilization or lower than expected savings from managed competition.

The member of the Public Employees' Benefits Board who represents a school employees' association and one member with health benefit experience are nonvoting members until at least 12,000 school employees are enrolled with the HCA.

Several statutory requirements governing the optional transfer of political subdivision employees into HCA health purchasing are removed from law, including the requirement that the entire subdivision transfer as a unit, the requirement that the subdivision obligate itself to make employer contributions at least equal to those provided by the state as an employer, and the requirement that there be a public hearing on the application for transfer to the HCA. Participation in the HCA plans is subject to applicable collective bargaining laws.

Both the depository for employer contributions on behalf of part-time workers and the Caregivers Program are repealed. The HCA's responsibility to develop an Indian health care delivery plan is repealed. (This responsibility is transferred to the Department of Health in SSB 5253.)

Employees of technical colleges who were members of a benefits trust and, as a result of the 1991 vocational training reform act, were required to enroll with the HCA, must decide whether to reenroll in the trust by January 1, 1996. This one-time reenrollment option is available to be exercised in January 2001, or only every five years thereafter, until exercised.

The HCA is required to study the feasibility of a voucher-type process for enrolling state employees with any health carrier for employee benefits. The Washington State Health Care Policy Board (created by SHB 1046) is required to study the desirability of HCA future self-funding of the Uniform Medical Plan.

The state is authorized to establish a benefit contribution plan under which state employees may select certain benefits on a "before-tax" basis. The HCA is responsible for adopting a plan and procedures and for administering the plan, to begin with plan year 1996. The plan may be terminated at the end of a plan year and may be amended at any time if the rights of participants to receive eligible reimbursement are not affected.

HB 1583

Votes on Final Passage:

House 95 0

First Special Session

House 94 0

Senate 47 0

Effective: July 1, 1995

HB 1583

C 213 L 95

Changing whistleblower provisions.

By Representatives L. Thomas, Backlund, Huff, Chappell, Wolfe, Buck and Kessler; by request of State Auditor.

House Committee on Government Operations

Senate Committee on Government Operations

Background: It is unlawful for any local government official or employee to retaliate against a local government employee who in good faith reports improper governmental action in accordance with the local government's procedures for reporting such information. "Improper governmental action" is defined as an action undertaken in the performance of the employee's duties that is a violation of law, is an abuse of authority, endangers the public health or safety, or is a gross waste of public funds.

Each local government was required to adopt policies and procedures for handling whistleblower complaints by January 1, 1993. The policies must identify to whom the reports must be made. The prosecuting attorney must be listed as one of the people to whom a report may be made.

A person who reports improper governmental activity must follow the procedures adopted by the local government in order to receive the protections provided by law. Some local governments have not adopted whistleblower policies.

Summary: If a local government has failed to adopt procedures for reporting improper governmental activity, an employee may report alleged improper governmental action directly to the county prosecuting attorney.

If the prosecuting attorney or an employee of the prosecuting attorney participated in the alleged improper governmental activity, a local government employee may report the activity to the State Auditor. The local government must pay the costs incurred by the State Auditor in conducting these investigations through the municipal revolving account.

Votes on Final Passage:

House 96 0

Senate 47 0 (Senate amended)

House 93 0 (House concurred)

Effective: July 23, 1995

ESHB 1589

C 267 L 95

Providing health care quality assurance.

By House Committee on Health Care (originally sponsored by Representatives Backlund and Dyer).

House Committee on Health Care

Senate Committee on Health & Long-Term Care

Background: The 1993 Washington Health Services Act (WHSA) sets forth a comprehensive health data system and health quality improvement process. The state quality improvement and medical malpractice prevention program applies only to hospitals and does not permit related state agencies and health carriers to participate.

The Comprehensive Hospital Abstract Reporting System (CHARS) was created to gather, analyze, and report hospital discharge data. To finance this activity, hospitals are assessed no more than four one-hundredths of one percent of each hospital's gross operating costs. Although there are different types of CHARS users, hospitals are the sole funding source. The WHSA placed a tax on hospitals of .75 percent (1994) and 1.5 percent (1995) to be deposited in the health services account for the support of health reform activities. The CHARS assessment was not repealed.

The WHSA permits the granting of anti trust immunity to certain health care entities.

Summary: The Comprehensive Hospital Abstract Reporting System (CHARS) is maintained. The CHARS assessment is repealed if funds are made available in the biennial budget to offset the assessment.

The Department of Health, in cooperation with the Washington Health Care Policy Board (created in ESHB 1046) and the Washington State Information Services Board, is required to develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government.

The Department of Health (DOH), in consultation with the Washington Health Care Policy Board, is required to study the feasibility of a uniform quality assurance and improvement program. In doing so, DOH must also consult with consumers, health carriers, and health care providers and facilities. The study shall include but not be limited to: health care provider training, credentialing, and licensure standards; health care facility credentialing and recredentialing; staff ratios in health care facilities; mortality and morbidity rates; cost and average length of hospital stays; the number of the defined set of procedures performed by physicians at health care facilities; utilization performance profiles by provider; and other elements. DOH must submit a preliminary report and recommendations to the Legislature by December 31, 1995, but may not adopt any related rules unless expressly directed to do so by an act of law.

By July 1, 1995, the Washington Health Care Policy Board must form an interagency group with the DOH, the Health Care Authority, the Department of Social and Health Services, the Office of the Insurance Commissioner, and the Department of Labor and Industries for coordination and consultation on quality assurance activities.

Health-related state agencies, health maintenance organizations, and health service contractors are authorized to develop a quality improvement and medical malpractice prevention program consistent with state law. Information created specifically for and collected and maintained by the committee is exempt from public disclosure.

The antitrust provisions of the WSHA are modified. Between May 8, 1995 and June 30, 1996, health care entities may not initiate procedures for antitrust immunity protection. Provisions are added to protect trade secret or proprietary information. The antitrust authority under the Health Services Commission is transferred to the Washington Health Care Policy Board. However, when the board is exercising this authority, legislative members of the board are deemed not to be members. The Attorney General is required to study the impact on competition and efficiency of antitrust immunities and report to the Legislature by December 15, 1995.

Votes on Final Passage:

House	98	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	44	3	(Senate amended)
House	93	1	(House concurred)
House	94	0	(House reconsidered)

Effective: July 1, 1995
 May 8, 1995 (Sections 8-11)

2ESHB 1592

FULL VETO

Crediting certain insurance premium taxes.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Dellwo, Mielke and G. Fisher).

House Committee on Financial Institutions & Insurance
 House Committee on Finance

Background: Insurance guaranty associations are statutorily created organizations comprised of all insurance companies authorized to write a particular type of insurance in the state. The associations typically are governed by a board of directors made up of representatives of the insurance industry, the state insurance regulator, and sometimes the general public. The associations are statutorily required to protect policyholders when an insurance company becomes

insolvent or a court orders liquidation of the company. Generally, there are statutory limits on the amount of protection provided by insurance guaranty associations. Insurance guaranty associations assess member insurance companies after an insolvency occurs to raise funds to protect policyholders adversely affected by the insolvency. The assessment in any one year is limited by statute, usually to 2 percent of premiums.

Washington has two insurance guaranty associations. The Washington Insurance Guaranty Association protects property and casualty policyholders. The Washington Life and Disability Insurance Guaranty Association protects life and disability insurance policyholders. When an insolvency or liquidation occurs, the member insurance companies of the affected guaranty association are assessed based on their percentage of Washington premiums; the assessment is limited to 2 percent of a member company's Washington premiums. An insurance company is exempt from paying assessments if the assessments would make the company insolvent.

In 1993, a tax credit for assessments paid to guaranty associations by member insurance companies was removed from law.

Summary: Insurance companies that pay an assessment to the Washington Insurance Guaranty Association or the Washington Life and Disability Insurance Guaranty Association are entitled to a tax credit, in the amount of the assessment, against premium taxes owed. The tax credit must be taken over ten years. The tax credit is prospective only; it applies to assessments that occur after the effective date of the bill.

Votes on Final Passage:

House	76	21
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First Special Session

House	78	19
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Second Special Session

House	75	18
Senate	34	13

VETO MESSAGE ON SHB 1592

June 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Second Engrossed Substitute House Bill No. 1592 entitled:

"AN ACT Relating to credit against the premium tax for guaranty association assessments paid by insurers;"

Second Engrossed Substitute House Bill No. 1592 reinstates an insurance premiums tax credit for assessments paid to insurance guaranty associations.

Insurance guaranty associations are statutorily created organizations comprised of all insurance companies authorized to write a particular type of insurance. In the event a member insurance company becomes insolvent, the Insurance Commissioner makes assessments against the remaining members in order to pay any outstanding claims.

EHB 1603

Prior to 1993, insurance companies were allowed an insurance premiums tax credit for assessments paid to the associations. The credit was taken over a five-year period. In 1993, the legislature eliminated the credit prospectively by limiting the credit to assessments paid prior to April 1, 1993.

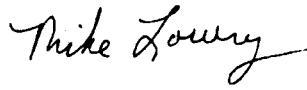
Second Engrossed Substitute House Bill No. 1592 would reverse the 1993 legislative decision by allowing the tax credit for assessments paid after the bill's effective date.

The 1993 Legislature, in removing the credit, correctly determined that the insurance industry, not taxpayers, should protect policy holders when an insurance company becomes insolvent.

The insurance guaranty associations benefit the insurance industry indirectly by assuring public confidence in the industry's products. Furthermore, solvent companies who pay these assessments directly benefit by absorbing the customers of companies that become insolvent.

For these reasons, I have vetoed Second Engrossed Substitute House Bill No. 1592 in its entirety.

Respectfully submitted,



*Mike Lowry
Governor*

EHB 1603

C 186 L 95

Disclosing deposit account information.

By Representatives L. Thomas, Morris, Huff, Campbell, Smith, Beeksma and Kessler.

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

Background: The federal Right to Financial Privacy Act generally prohibits federal agencies from obtaining financial records on financial institutions' customers without a subpoena. There is no similar state law. Courts have held that financial institutions sometimes have a duty to their customers not to release information on their customers' accounts.

Summary: A financial institution is immune from liability for the good faith disclosure of certain information regarding dishonored checks and related checking accounts that is requested by a law enforcement agency. The request must be in writing, must indicate the request is part of a criminal investigation, must indicate the officer believes statutory notice has been given, and must include a copy of at least one unpaid check. The financial institution, to the extent allowed by federal law, shall disclose: (1) the date the account was opened; (2) a copy of the statements of the account for the period under investigation; (3) a copy of the signature card; and (4) the notice of account closure, if applicable. The financial institution may charge requesting parties a reasonable fee.

Records obtained by law enforcement from financial institutions may be admitted as evidence in all courts if a prescribed certificate is included.

It is a gross misdemeanor for a deposit account applicant to knowingly make false statements to a financial institution regarding: (1) the applicant's identity; (2) past fraud convictions; or (3) outstanding judgments on checks issued by the applicant. Each violation after the third violation is a class C felony. A financial institution is under no duty to request this information when opening an account.

Votes on Final Passage:

House	97	1
Senate	39	0

Effective: July 23, 1995

SHB 1610

C 288 L 95

Increasing involvement of victims in criminal prosecutions.

By House Committee on Law & Justice (originally sponsored by Representatives Delvin, Costa, Ballasiotes, Padden, Tokuda, Kremen, Chappell, Morris, Campbell, Hatfield, Cody, Regala, Romero, Hickel, Sheldon, Robertson and Kessler).

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

Background: Under the Sentencing Reform Act, the prosecuting attorney may enter into a plea agreement with the defendant in a criminal case under certain situations.

Whenever the prosecuting attorney enters into a plea agreement with an accused, he or she must state to the court, at the time of the defendant's plea, the nature of the agreement and the reasons for the agreement. The court determines whether the agreement is consistent with the interests of justice and with the prosecuting standards. If the court determines the plea is not consistent with the interests of justice and the prosecuting standards, the defendant and the prosecutor are not bound by the agreement and the defendant may withdraw the plea of guilty and enter a plea of not guilty.

The Sentencing Reform Act also provides that a prosecuting attorney may decline to prosecute in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law, or would result in decreased respect for the law. For example, a prosecutor may decline to prosecute certain crimes if the victim requests that no criminal charges be filed.

The prosecuting attorney may engage in discussions and reach agreements with the defendant or the defendant's representative regarding the selection or disposition of charges prior to the filing of charges.

Victims of crimes are granted certain rights under the state constitution and statutes. The Washington Constitution provides that crime victims have the right to be informed of and attend trial and all other court proceedings the defendant has a right to attend, and the right to make a

statement at sentencing or any hearing where the defendant's release is being considered.

Statutory provisions grant crime victims additional rights, including the right to be informed of the final disposition of the case, the right to have a crime victim advocate present when the victim of a violent or sex crime is being interviewed by the prosecutor or the defense, the right to be notified of the time of the trial and sentencing and to be present in court proceedings, and the right to submit a victim impact statement or report to the court.

Summary: The prosecuting attorney shall make reasonable efforts to notify the victims of all crimes against persons of the nature of and reasons for a plea agreement, and to ascertain any objections or comments the victims have concerning a plea agreement. At the time of the defendant's plea, the prosecutor shall inform the court whether the victims of all crimes against persons covered in the plea agreement have expressed any objections to or comments on the plea agreement.

The prosecuting attorney may enter into discussions with the victim or victims of a crime regarding the selection or disposition of charges prior to the filing of charges. These discussions may be considered by the prosecutor in charging and disposition decisions.

Votes on Final Passage:

House	94	0	
Senate	40	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 23, 1995

ESHB 1611

C 346 L 95

Providing a tax exemption for new construction of alternative housing for youth in need.

By House Committee on Finance (originally sponsored by Representatives Costa, Radcliff, Scott, Kessler, Blanton, Koster, D. Schmidt, Beeksmma, Romero, Thompson, Regala and Kremen).

House Committee on Finance
Senate Committee on Ways & Means

Background: The retail sales tax is imposed on sales of most articles of tangible personal property and some services. The sales tax is paid by the purchaser and collected by the seller. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location.

The use tax is imposed on the use of articles of tangible personal property when the sale of the property was not subject to sales tax. The use tax applies when property is acquired from out of state. It also applies when property is acquired from an in-state person who does not collect sales

tax. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Washington law does not provide a general exemption from the retail sales and use taxes for nonprofit organizations or government agencies. Most sales and use tax exemptions are for specific items, such as food for home consumption and prescription drugs. Nonprofit organizations generally pay tax when buying goods and services subject to sales and use taxes. A few sales and use tax exemptions exist for nonprofit organizations such as the purchase and use of goods by the Red Cross and the purchase and use of art objects by nonprofit artistic and cultural organizations.

Summary: Nonprofit health or social welfare organizations are exempt from sales and use taxes on items necessary for new construction of alternative housing for youth in crisis. A youth in crisis is a person under 18 who is either: homeless, runaway, abused, neglected, abandoned or is suffering from a substance abuse or mental disorder. The facility must be licensed by the Department of Social and Health Services upon completion to quality for the tax exemption. The exemption is scheduled to expire July 1, 1997.

Votes on Final Passage:

House	98	0	
Senate	41	1	(Senate amended)
House	93	0	(House concurred)

Effective: May 13, 1995

HB 1624

C 68 L 95

Increasing to five years the time after a preliminary plat is approved before a final plat must be submitted for approval.

By Representatives Hymes, Carlson, Brumsickle, Hargrove, Morris, Casada, Buck, Radcliff, Benton, Grant, Reams and Thompson.

House Committee on Government Operations
Senate Committee on Government Operations

Background: After a preliminary plat has been approved by a city, town, or county, an applicant has three years to submit a final plat that meets all necessary requirements. The applicant may obtain a one-year extension if the applicant files a written request to the legislative body at least 30 days before the expiration of the three-year period, and the applicant is able to show that he or she attempted in good faith to submit the final plat within the three-year period.

Summary: The time for submitting a final plat to the legislative body of the city, town, or county for approval is increased to five years after the date of preliminary plat

SHB 1632

approval. Language authorizing a one-year extension for submission of the final plat is deleted.

Votes on Final Passage:

House	95	1
Senate	46	0

Effective: July 23, 1995

SHB 1632

C 357 L 95

Exchanging certain public lands.

By House Committee on Natural Resources (originally sponsored by Representatives Horn, Basich and Fuhrman).

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: The Department of Natural Resources manages over 2 million acres of state-owned aquatic lands. These aquatic lands were granted to the state at statehood and include tidelands, shorelands, and bedlands. Approximately 39 percent of the state's original endowment of tidelands, 70 percent of the original shorelands, and all of the state's bedlands remain in public ownership. Current law prevents any further sale of shorelands and tidelands except to public entities.

The department has specific authority to exchange uplands for certain purposes. The department has specific authority to exchange state-owned tidelands and shorelands under certain conditions for municipal park and playground purposes. There is no other express authority in statute allowing the department to exchange tidelands and shorelands.

Summary: The Department of Natural Resources may exchange state-owned tidelands and shorelands with private and other public landowners if the exchange is in the public interest and will actively contribute to the public benefits identified in the statutory guidelines for management of aquatic lands. The department may not exchange state-owned harbor areas or waterways.

Votes on Final Passage:

House	95	0
Senate	44	1 (Senate amended)
House	93	0 (House concurred)

Effective: July 23, 1995

SHB 1658

C 328 L 95

Providing that filled or altered wetlands shall not be considered or treated as wetlands.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Pennington, Hatfield, Morris, Basich, Boldt, Chandler and Benton).

House Committee on Agriculture & Ecology
Senate Committee on Ecology & Parks

Background: Wetlands can be regulated by federal, state, or local entities.

The Department of Fish and Wildlife issues hydraulic project approval (HPA) permits for work that affects waterbodies, including wetlands. The purpose of the permit is ensure that the project does not adversely affect fish life.

State law directs the department to expedite the processing of HPA permits in certain specified areas affected by the Mt. St. Helens eruption.

Summary: The Department of Fish and Wildlife cannot require mitigation for adverse effects to fish life or habitat, if the adverse impact was caused by the legal filling of a wetland in response to the eruption of Mt. St. Helens.

Votes on Final Passage:

House	97	0
Senate	48	0 (Senate amended)
House	96	0 (House concurred)

Effective: July 23, 1995

SHB 1660

C 289 L 95

Authorizing the director of labor and industries to issue approvals based on national consensus codes and external professional certification.

By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk and Romero; by request of Governor Lowry).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: The Department of Labor and Industries administers and enforces statutes regulating the body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, and recreational vehicles. For factory built housing and commercial structures, the department must assure structural soundness and the safety of the plumbing, heating, and electrical systems.

The department is authorized to adopt rules to implement these requirements and to make inspections as necessary to enforce the requirements.

Summary: Under the statutes regulating the manufacturing of mobile homes, commercial coaches, recreational vehicles, and factory built structures, the director of the Department of Labor and Industries may adopt rules that permit the approval of plans certified as meeting state requirements. To receive approval, the plans must be certified by a professional who is licensed or certified in a state with licensure or certification requirements meeting or exceeding Washington requirements.

Votes on Final Passage:

House	63	32	
Senate	48	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 23, 1995

SHB 1669
C 290 L 95

Extending hotel/motel tax authorization for tourist promotional structures to cities wholly located on an island.

By House Committee on Finance (originally sponsored by Representatives Beeksmas, Sehlin, Quall, Hargrove, Hymes and Costa).

House Committee on Finance
Senate Committee on Government Operations

Background: A special sales tax on hotel/motel room rentals was first authorized in 1967 for King County to build the Kingdome. The rate was 2 percent and was levied on sales of lodging by hotels, rooming houses, tourist courts, motels, and trailer camps throughout the county. The Legislature allowed the tax to be credited against the state sales tax rate. The 1973 Legislature extended this taxing authority to all cities and counties and expanded the uses to include convention centers as well as sports facilities. The uses have since been expanded to provide financing for a variety of facilities and programs, including the construction and operation of stadiums, convention center facilities, performing arts facilities, visual arts center facilities, and promoting tourism. Some jurisdictions have special authorizations to use the revenue for particular purposes, such as tall ship tourist attractions, ocean beach boardwalks, and public restrooms.

The basic hotel/motel tax is a credit against the state sales taxes that are imposed on hotel/motel room rental charges. Therefore, the total amount of tax paid by the consumer is not increased as a result of the basic hotel/motel tax.

In recent years, the Legislature has authorized additional state and local option hotel/motel taxes. The newer local option taxes are not credited against the state sales tax rate. Therefore, these taxes increase the total amount of tax paid by the consumer.

Summary: For a city bordering on the Skagit River with a population of not less than 20,000, or a city within a county made up entirely of islands, basic hotel/motel tax revenues may be used for the acquisition, construction or operation of publicly-owned tourist promotional infrastructures, structures and buildings. The examples of such infrastructures are expanded to include public docks and viewing towers.

For cities located on the San Juan Islands and the county in which they are located, allowable uses of basic hotel/motel tax revenue include various facilities for the use of tourists.

Any city or county may use hotel/motel tax revenues for the purpose of funding a civic festival, under certain circumstances.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	94	2	(House concurred)

Effective: July 23, 1995

SHB 1671
C 109 L 95

Revising commodity commission assessment authority.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Clements, Chandler, Grant and Mastin).

House Committee on Agriculture & Ecology
House Committee on Finance
Senate Committee on Agriculture & Agricultural Trade & Development

Background: Tree Fruit Research Commission. The Tree Fruit Research Commission was created by statute to carry out research regarding tree fruit and to administer industry-specific service programs. The activities of the commission are funded by assessments on tree fruit commercially produced in the state. To take effect, the initial assessment authorized by statute had to be approved by a referendum submitted to the commercial producers of tree fruit. Similarly, any increases in the assessment must be approved by a referendum submitted to the producers. The current assessment rate for cherries is \$2 per ton. State law permits the producers to establish, by referendum, an additional assessment for programs such as sanitation programs and those assisting the reregistration of pesticides for use on minor crops.

Commodity Boards and Commissions - In General. Some agricultural commodity commissions, such as the Tree Fruit Research Commission, Apple Advertising Commission, Beef Commission, and Dairy Products Commission, have been created by statute. The state's Agricultural Enabling Acts of 1955 and 1961 provide procedures under which the producers of agricultural

commodities may prepare marketing agreements and orders to create, by referenda, agricultural commodity boards and commissions for the commodities without further statutory authority.

The Agricultural Enabling Act of 1961 requires a marketing order adopted under the act creating a commodity board to specify the assessment as part of the marketing order. The order may be amended only by a referendum approved by affected producers or producers and handlers or by the written agreement by the affected parties. The Hop Commodity Board and the Mint Commodity Board were created under the authority of the 1961 act.

Hops and Mint. Through 1995, the annual assessment on all varieties of hops is \$2.50 per unit. Beginning in 1996, the assessment is \$1.25 per unit. The assessed unit for hops is 200 pounds or the lupulin, extract, or oil from 200 pounds. The current annual assessment for mint oil is three and one-half cents per pound as weighed by the first purchaser.

Initiative 601. Initiative 601 was approved by the voters at the November 1993 general election. Section 8 of the initiative states that no fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor for that fiscal year without prior legislative approval. The fiscal growth factor for a fiscal year is the average of the sum of inflation and population change for each of the prior three fiscal years.

Summary: The Tree Fruit Research Commission is authorized to increase the assessment on cherries in excess of the fiscal growth factor to \$4 per ton. It may also, with regard to any additional assessment placed on all tree fruits, establish an additional assessment of not more than 8 cents per ton.

The Hop Commodity Board is authorized to raise the rate of annual assessment in excess of the fiscal growth factor from \$2.50 per unit to \$3 per unit. The Mint Commodity Board may increase its annual assessment in excess of the fiscal growth factor from three and a half cents per unit to five cents per unit. These assessments may be raised only by using the procedures established in the Agricultural Enabling Act of 1961. These assessment limits apply only to a commodity board's authority to raise assessments in excess of the fiscal growth factor.

Votes on Final Passage:

House	96	0
Senate	42	0

Effective: July 1, 1995

Expanding property tax deferrals for senior citizens and persons retired by reason of physical disability.

By House Committee on Finance (originally sponsored by Representatives Dickerson, Mason, Morris, Chappell, Wolfe, Kessler, Hatfield, Conway, Benton, Kremen, Cody and Mastin).

House Committee on Finance
Senate Committee on Ways & Means

Background: Property subject to tax is assessed at its true and fair market value, unless the property qualifies under a special tax relief program.

Homeowner property tax relief is provided for senior citizens and persons retired due to disability. To qualify, a person must be age 61 in the year of application, or retired from employment because of a physical disability, own their principal residence, and have an income below certain levels. Eligible persons with incomes less than \$26,000 receive partial exemptions of tax. Eligible persons with incomes less than \$30,000 may defer taxes. A surviving spouse of age 57 or over may continue in the exemption and deferral programs.

Disposable income is defined as the sum of federally defined adjusted gross income and the following, if not already included: capital gains, deductions for loss, depreciation, pensions and annuities, military pay and benefits, veterans benefits, social security and federal railroad retirement benefits, dividends and interest income. The income of a spouse and cotenants with an ownership interest in the residence is included in disposable income. Disposable income does not include amounts paid for nursing home care or in-home treatment or care of the claimant or spouse.

Taxes that are deferred become a lien against the property and accrue interest at 8 percent per year. If deferred taxes are not repaid within three years after the claimant ceases to own and live in the residence, the lien will be foreclosed and the residence sold to recover the taxes.

These property tax deferrals and exemptions only apply to the principal residence and the land on which it stands, not to exceed one acre.

Summary: The property tax deferral program is expanded to allow persons of age 60 to apply for the program. The income threshold for the deferral program is increased to \$34,000. The acreage eligible for deferral is increased from one acre to five acres.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	95	1	(House concurred)

Effective: July 23, 1995

SHB 1677

C 358 L 95

Requiring school districts to obtain an appraisal before purchasing real property.

By House Committee on Education (originally sponsored by Representatives Koster, Campbell, Radcliff, Sheldon, Brumsickle, Stevens, McMahan, Smith, Clements, McMorris, Sherstad and Robertson).

House Committee on Education
Senate Committee on Education

Background: Current state law does not require school districts to obtain appraisals prior to buying real estate.

Current law does require, however, that school districts obtain a market value appraisal by three licensed real estate brokers or professionally designated real estate appraisers prior to selling real property.

The major activities of "licensed real estate brokers" are to buy, sell, advertise, and negotiate the sale and purchase of real estate. While they often complete informal market appraisals, state law does not require that they have extensive experience in real estate valuation.

According to state law, a "professionally designated real estate appraiser" is an individual who is regularly engaged in the business of providing real estate valuation, who is deemed qualified by a nationally recognized real estate appraisal educational organization, and who is required to adhere to specified standards of professional practice.

Summary: School districts must obtain a market value appraisal prior to buying real property. The appraisal must be conducted by a professionally designated real estate appraiser selected by the district's board of directors.

When selling real property, current law is amended to require that the market value appraisal be conducted only by professionally designated real estate appraisers. The appraisals may not be conducted by licensed real estate brokers. In addition, only one appraisal is required, not three.

Votes on Final Passage:

House	97	1
Senate	40	6

Effective: July 23, 1995

ESHB 1679

PARTIAL VETO

C 277 L 95

Revising regulation of security guards and private investigators.

By House Committee on Commerce & Labor (originally sponsored by Representatives Cole, Lisk, Horn, Cody, Romero, Ballasiotes, Conway, Jacobsen and Patterson).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: Licensing Requirements. In 1991, a state-wide licensing scheme, administered by the Department of Licensing, was established for private security guards, private security guard companies, private detectives, and private detective companies.

Applicants must meet minimum requirements to be come licensed. The requirements include no criminal history during the preceding 10 years that relates to the duties of a security guard. Applicants must also pay a license fee.

To be licensed as a private security guard business or a private detective business, an applicant must have an individual license and meet additional age and experience or examination requirements. There is no restriction on the name the company may use.

Applicants for an armed private security guard or an armed private detective license must meet minimum requirements including a current firearms certificate issued by the Criminal Justice Training Commission.

After receiving an application for a license, the director conducts a background investigation of the applicant, including fingerprint comparison. The director will issue a license card to each qualified applicant. The card may not be used as identification.

A licensed private security guard company or private detective company may issue an employee a temporary registration card after the employee has completed preassignment training and has submitted an application for a permanent license. The temporary registration card is valid until a license is issued or denied by the department, or for a period of 60 days, whichever occurs first.

A licensed company must notify the director within 30 days of an employee's death or termination of employment of any licensed security guard or private detective.

A licensed company must either post a bond with the department or file a certificate of insurance showing comprehensive general liability coverage.

A valid license issued by another state is valid in this state for 90 days if the licensee is on temporary assignment for the same employer that employs the licensee in his or her home state.

Training. The director of the Department of Licensing establishes by rule any preassignment training require-

ments. Preassignment training must include at least four hours of classes.

Penalties. There are 21 prohibited acts that may result in disciplinary action or denial or revocation of a license. Examples include knowingly making a material misstatement in the application process or being convicted of certain gross misdemeanor or felony offenses. There is no specific authority for the department to assess administrative penalties.

The director is given authority to administer and enforce this licensing program and may investigate complaints for unprofessional conduct and impose sanctions.

Specific acts may result in a person's conviction of a gross misdemeanor violation. All fines, fees, and forfeitures assessed and collected by a court for these violations are sent to the department.

Summary: New provisions are added and current provisions are clarified for the licensing of security guards and private detectives and for related enforcement measures. The term "private detective" is changed to "private investigator."

Licensing Requirements. The director may consider an applicant's entire criminal history in evaluating an application for licensure. Application fees are nonrefundable and an application to act as a private security guard, armed private security guard, private investigator or armed private investigator is required for each company for which the applicant is employed. A transfer application and fee is established for those licensees who transfer from one company to another. The use of a license as identification is no longer prohibited.

Applicants must have a license to carry a concealed pistol as a minimum requirement for an armed private investigator license. There is no similar requirement for armed private security guard applicants. Licensees and those acting on their behalf cannot display a firearm when soliciting business.

A business seeking a license to operate as a private security guard company or a private detective company may not operate under a company name that portrays the company as a law enforcement agency or uses the word "police."

The director may approve alternate methods to the bonding of licensed private investigation companies.

Companies must return to the department licenses of those employees who have terminated employment. Local law enforcement must be notified when an armed security guard or armed private investigator discharges a firearm.

When using temporary licenses for new employees, the company must submit to the department within three business days, a complete application for the individual using a temporary license. Any misuse of temporary permits may result in suspension of the privilege to use them.

An out-of-state security guard or private investigator on temporary assignment in this state may not solicit business in this state.

Training. The requirement for a minimum of four hours of preassignment training is removed for private investigators.

Penalties. The department is authorized to assess administrative penalties along with license suspension, revocation, or disciplinary action. Added to the activities that may result in such penalties are unprofessional conduct, failure to maintain insurance, and failure of a business to have a qualifying principal in place. A private investigator who knowingly helps a client contact a person who is protected from such contact by court order is also subject to penalties and disciplinary action.

The director must use advisory committees consisting of no less than five representatives of the security guard industry to assist in developing policies to implement this program.

It is a gross misdemeanor to use a name that portrays a person, individually or in a business, as a public law enforcement officer or agency.

Any court-assessed criminal fines or penalties based on violations of licensing provisions need no longer to be remitted to the department.

Votes on Final Passage:

House	98	0	
Senate	43	0	(Senate amended)
House	91	0	(House concurred)

Effective: May 9, 1995

Partial Veto Summary: The Governor vetoed provisions directing the department to establish ad hoc advisory committees to assist in developing policies to implement business regulations for security guards. The vetoed section of the bill also would have granted authority to the director to assess administrative penalties.

VETO MESSAGE ON HB 1679-S

May 9, 1995

*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 13, Engrossed Substitute House Bill No. 1679 entitled:

"AN ACT Relating to professional licensing of private security and investigation;"

From the outset of my administration, it has been my objective to review all boards and commissions in existence in an effort to streamline state government. Where a board, commission or committee is not required, has outlived its mission, or where its functions can be achieved without statutory mandate, I have asked the legislature to eliminate it. Working together, we have significantly reduced the number of boards and commissions.

Section 13 of Engrossed Substitute House Bill No. 1679 would require that the director of the Department of Licensing establish ad hoc committees to assist in the development of policies related to the licensing of security guards. These committees would result in statutorily mandated costs to be borne by licensed security

guards and would unnecessarily escalate professional license fees.

Input from security guard professionals can be sought without legislative mandate. Since such input will be vital to the development of rules by the Department of Licensing and, ultimately, for the success of the licensing program, I have instructed the director of the department to include in the rule making process those representatives of the profession as outlined in the bill on a voluntary, cooperative basis.

For this reason, I have vetoed section 13 of Engrossed Substitute House Bill No. 1679.

With the exception of section 13, Engrossed Substitute House Bill No. 1679 is approved.

Respectfully submitted,



*Mike Lowry
Governor*

SHB 1680

C 291 L 95

Revising the distribution of interest on court fines.

By House Committee on Law & Justice (originally sponsored by Representatives Hickel, Appelwick and Padden; by request of Administrator for the Courts).

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

Background: Under current practice, courts of limited jurisdiction charge interest on penalties, fines, forfeitures, fees, and costs that are unpaid and have been referred to a collection agency. The authority to charge interest is not found in statute, and there is apparently little uniformity in the uses to which such interest is put.

Superior courts charge interest on legal financial obligations, accruing from the date that judgment is entered.

Courts are empowered to use collection agencies to collect unpaid penalties, fines, forfeitures, fees, and costs. Under current practice, courts often enter into agreements with collection agencies that allow such agencies to retain all or a portion of the interest accrued on unpaid court obligations to offset collection costs.

Summary: Courts of limited jurisdiction are granted the authority to collect interest on unpaid penalties, fines, bail forfeitures, fees, and costs at a rate of 12 percent per annum. Such interest may begin to accrue when a case is assigned to a collection agency and may continue to accrue while the case remains in collection status.

Courts are authorized to enter into agreements with collection agencies which allow those agencies to retain all or any portion of the interest collected on unpaid court obligations.

Interest on court obligations that is retained by cities and counties is exempted from the standard remittance to the state treasurer. All such interest must be distributed as follows: 25 percent to the state public safety and education

account; 25 percent to the state judicial information system account; 25 percent to the local current expense account or general fund; and 25 percent to fund local courts.

Votes on Final Passage:

House	97	1	
Senate	41	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 23, 1995

HB 1687

C 13 L 95

Providing for distribution of appropriations for court-appointed special advocate programs.

By Representatives Lambert, Costa, Padden, Appelwick, Fuhrman, Grant, Sheahan, Tokuda, Chappell, Thibaudeau, Voloria, Morris, Hickel, Huff, Patterson and Mastin.

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

Background: Courts are authorized to appoint special advocates, or guardians ad litem, to represent the interests of children in cases brought in family or juvenile court. Courts must appoint a guardian ad litem for a child in any case where it is alleged that the child has been abused or neglected.

A guardian ad litem is considered an officer of the court. The role of the guardian ad litem is to protect the best interests of the child, to collect and report information regarding the child's situation, and to monitor both appropriateness of and compliance with any court order regarding the child. The guardian has access to all information available to the state, must be notified of all court proceedings, and is empowered to present evidence and examine witnesses.

Guardian ad litem services are provided through court-appointed special advocate programs.

A corporation may be designated as a public benefit nonprofit corporation if it complies with all the requirements of the Washington Nonprofit Corporation Act, and holds, or is not required to apply for, tax exempt status under federal law.

Summary: The Department of Community, Trade, and Economic Development (CTED) is required to distribute all funds appropriated by the Legislature for the statewide technical support, development, and enhancement of court-appointed special advocate programs.

Criteria are established that an organization providing such services must meet to be eligible for funding. To receive funding, an organization must develop and support court-appointed special advocate programs on a statewide basis. All of the guardians ad litem working under those programs must be volunteers receiving no payment for

SHB 1692

their services. Finally, the organization must be a public benefit nonprofit corporation.

If more than one organization is found eligible to receive funding, CTED is required to develop criteria for allocating all appropriated money among those organizations.

Votes on Final Passage:

House	96	1
Senate	47	0

Effective: July 23, 1995

SHB 1692
PARTIAL VETO
C 292 L 95

Clarifying clerks' fees.

By House Committee on Law & Justice (originally sponsored by Representatives Padden, Costa, Scott and Appelwick).

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

Background: Courts are authorized by statute to collect fees for the use of the court system. The amount of the fee varies with the type of action the party brings or the type of relief or information the party is seeking.

Clerks of superior courts are directed to collect specified fees. For example, the clerk of the superior court is to collect a fee of \$110 from the party filing the first or initial paper in any civil action or appeal. In addition, the clerk is to collect a fee of \$20 for the filing of a petition for modification of a decree of dissolution, \$2 for executing a certificate with or without a seal, and \$100 for a demand for a jury of 12.

Several other chapters of the Revised Code of Washington require the payment of fees for specified actions. For example, a fee not to exceed \$50 is required for a petition seeking a declaration of emancipation by a minor, and a fee of \$20 is required for a petition filed seeking an order of protection from domestic violence.

Many of the fees collected by clerks of the superior court are subject to division. The county must pay 46 percent of the fees collected for first filings in civil actions and appeals, for demands for juries, and for modifications of dissolution decrees to the State Treasurer for deposit in the public safety and education account. The county must also pay to the county regional law library fund a sum of \$12 for every new probate or civil filing fee, including appeals, and \$6 for every fee collected for the commencement of a civil action in district court.

Summary: Provisions of the code concerning fees collected by the clerk of the superior court are restructured under the following format: (1) a section is created which specifies the fees which are divided between the county,

the state public safety and education fund, and the county or regional law library fund; (2) a new section is created specifying the fees which are divided between the county and the state public safety and education account; (3) a new section is created specifying the fees which are divided between the county and the county or regional law library fund; and (4) a new section is created specifying which fees the county retains in whole.

A new section is created specifying that fees collected for appellate review and for all copies and reports produced by the Office of the Administrator for the Courts must be transmitted to the appropriate state court.

A \$20 fee for domestic violence protection orders is eliminated. The June 30, 1995, expiration date is removed from a \$5 fee on marriage licenses that funds child abuse prevention programs.

Votes on Final Passage:

House	95	0	
Senate	44	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 23, 1995

Partial Veto Summary: The veto removes sections of the bill that were amended by another bill also passed during the 1995 session.

VETO MESSAGE ON HB 1692-S

May 9, 1995

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 8 and 11, Substitute House Bill No. 1692 entitled:

"AN ACT Relating to the clarification of clerks' fees;"

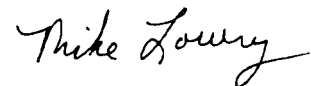
This bill clarifies and restructures statutes for the collection and distribution of court fees. However, this legislation contains language already signed into law in Engrossed Substitute Senate Bill No. 5219 which makes substantial revisions to statutes regarding domestic violence.

Section 8 of this bill eliminates the filing fee for orders for protection in cases of domestic violence. Section 3 of Engrossed Substitute Senate Bill No. 5219 made this change and contained additional desirable language regarding disclosure of other custody related litigation. Section 11 removes the expiration date for the five dollar fee on marriage licenses earmarked for child abuse and neglect prevention activities. Section 37 of Engrossed Substitute Senate Bill No. 5219 made this change and additionally included immediate implementation, enabling this fee to continue without unnecessary suspension.

For these reasons, I have vetoed sections 8 and 11 of Substitute House Bill No. 1692.

With the exception of sections 8 and 11, Substitute House Bill No. 1692 is approved.

Respectfully submitted,



Mike Lowry
Governor

SHB 1700

C 330 L 95

Changing current use taxation provisions.

By House Committee on Finance (originally sponsored by Representatives Sehlin, Chopp, Quall and B. Thomas).

House Committee on Finance

Senate Committee on Government Operations

Senate Committee on Ways & Means

Background: Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are five categories of lands that may be classified and assessed on current use. Three categories are covered in the open space law: open space lands, farm and agriculture lands, and timber lands; and two are in the timber tax law: classified and designated forest land.

The land remains in current use classification as long as it continues to be used for the purpose it was placed in the current use program. Land is removed from the program: at the request of the owner; by sale or transfer to an ownership making the land exempt from property tax; or by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The assessor may also remove land from the program if the land is not longer devoted to its open space purpose.

When property is removed from current use classification, back taxes plus interest must be paid. For open space categories, back taxes represent the tax benefit received over the most recent seven years. For classified and designated forest land, back taxes are equal to the tax benefit in the most recent year times the number of years in the program (but not more than 10). There are some exceptions to the requirement for payment of back taxes. For example, back taxes are not required on the transfer of the land to an entity using the power of eminent domain or in anticipation of the exercise of that power.

Summary: A transfer of classified or designated forest land to the Parks and Recreation Commission for parks and recreation purposes is exempt from payment of back taxes. Assessors are instructed not to remove land from forest land classification or designation if the land is expected to be acquired in a transaction exempt from paying the back taxes.

Votes on Final Passage:

House	86	12	
Senate	44	3	(Senate amended)
House	77	19	(House concurred)

Effective: May 11, 1995

HB 1702

C 14 L 95

Regulating wheelchair warranties.

By Representatives Horn, Romero, Cole, Carlson, Cody, Cooke, Rust, Poulsen, Veloria, Mitchell, Reams, Jacobsen, Fuhrman and Costa.

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce & Trade

Background: In 1994, a law was enacted requiring motorized wheelchair manufacturers 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.

Under the warranty, a manufacturer must make a reasonable attempt to repair a nonconforming motorized wheelchair, and if the problem is not fixed, then the manufacturer must either replace the motorized wheelchair with a comparable new motorized wheelchair or make a refund to the consumer. A refund includes the full purchase price plus finance charges, the 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 at least four attempts to correct a nonconformity, or at least 30 out-of-service days because of a nonconformity within the warranty period. A "nonconformity" means a condition or defect covered by an express warranty that substantially impairs the use, value, or safety of a motorized wheelchair.

These provisions do not limit a consumer's rights and remedies under other laws, and in addition, a consumer may recover twice the amount of pecuniary loss in an action for damages.

Other than implied warranties under the Uniform Commercial Code, there is no law that warrants new non-motorized wheelchairs.

Summary: The statutory provisions that apply to warranties for motorized wheelchairs are applied to all wheelchairs.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: July 23, 1995

HB 1706

C 15 L 95

Extending the dairy inspection program assessment.

By Representatives Koster, Chandler, Johnson, McMorris, Honeyford, Mastin, Boldt, Clements, Benton, McMahan, Smith, Kremen and Robertson.

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & Agricultural Trade & Development

Background: The Department of Agriculture administers the state's milk inspection program. In 1992, an assessment of 0.54 cents per hundredweight was established on all milk processed within the state. The revenue from the assessment may be used only to provide inspection services to the dairy industry; it is used for on-farm dairy inspections regarding compliance with the requirements of the federal Pasteurized Milk Ordinance.

The assessment is collected from the operator of the first milk plant receiving the milk for processing. It is scheduled to expire June 30, 1995.

Summary: The expiration of the dairy inspection assessment is postponed until June 30, 2000.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: April 12, 1995

SHB 1722

C 331 L 95

Exempting the UTC from administrative law judge requirements.

By House Committee on Law & Justice (originally sponsored by Representatives Padden, Appelwick and Mastin; by request of Utilities & Transportation Commission).

House Committee on Law & Justice
Senate Committee on Energy, Telecommunications & Utilities

Background: The Administrative Procedure Act provides procedures for the appeal of agency actions. A person or business adversely affected by an agency action may ask the agency for an adjudicative proceeding. The presiding officer in an adjudicatory hearing may be either: (1) the agency head; (2) if the agency has statutory authority to do so, a person other than the agency head or an administrative law judge designated by the agency head to make the final decision and enter the final order; or (3) an

administrative law judge assigned by the Office of Administrative Hearings.

If the agency conducts an adjudicatory hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings. The Office of Administrative Hearings is independent of all state agencies.

Certain agencies are exempt from the requirement of using the Office of Administrative Hearings in adjudicatory proceedings, including: (1) the Growth Planning Hearings Board; (2) the Pollution Control Hearings Board; (3) the Shorelines Hearings Board; and (4) the Public Employment Relations Commission.

The Washington Utilities and Transportation Commission (commission) is composed of three commissioners, appointed by the Governor with the consent of the Senate. The commission is required to regulate in the public interest the rates, services, facilities, and practices of persons engaging in the commercial transportation of persons or property, and persons engaging in the business of supplying any utility service or commodity to the public.

Summary: The Washington Utilities and Transportation Commission is exempted from the requirement that adjudicative hearings conducted by the commission be presided over by an administrative law judge appointed by the Office of Administrative Hearings.

The commission may designate employees of the commission as hearing examiners, administrative law judges, and review judges who have the power to administer oaths, issue subpoenas, examine witnesses, receive testimony, preside over adjudicative proceedings, and enter initial orders. Initial orders are to be entered in conformance with the provisions of the Administrative Procedure Act. Designated employees may not enter initial orders in rate increase filings by a natural gas, electric, or telecommunications company unless the company making the filing agrees in writing. Designated employees may not enter final orders except in emergency adjudications.

In any case where the designated employee does not enter an initial order, a majority of the commission members who are to enter the final order must hear or review substantially all of the record.

A provision which excludes transportation tariff docket hearings held by the commission from the requirement of using an administrative law judge appointed by the Office of Administrative Hearings is repealed.

Votes on Final Passage:

House 97 1
Senate 48 0 (Senate amended)
House 95 1 (House concurred)

Effective: July 23, 1995

ESHB 1724
PARTIAL VETO
 C 347 L 95

Revising provisions relating to growth management.

By House Committee on Government Operations (originally sponsored by Representatives Reams, Rust, L. Thomas, Goldsmith, Ogden, Patterson, Poulsen, Scott, Regala, Mastin, Valle and Chopp; by request of Governor Lowry).

House Committee on Government Operations
 House Committee on Appropriations
 Senate Committee on Ecology & Parks
 Senate Committee on Ways & Means

Background: A number of state laws permit or require counties and cities to establish land use regulations or control land use activities.

1. State Environmental Policy Act.

The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare a detailed statement, or environmental impact statement (EIS), if proposed legislation or other major action may have a probable significant, adverse impact on the environment.

The determination whether an EIS must be prepared involves a threshold determination and use of an environmental checklist. Some matters are categorically exempted from a threshold determination. If a threshold determination indicates that a probable significant adverse environmental impact may result, the proposal may be altered, or its probable significant adverse impact mitigated, to remove the probable significant adverse impact. If the probable significant adverse environmental impact remains, then an EIS is prepared addressing the matter or matters that are determined under the threshold determination process to have a probable significant, adverse environmental impact.

2. Shorelines Management Act.

The Shorelines Management Act requires counties and cities to adopt local shoreline master programs regulating land use activities in shoreline areas of the state. A local master program is submitted to the Department of Ecology (DOE) for its review and rejection or approval as meeting the requirements of the Shorelines Management Act and guidelines adopted by the DOE. The decision of the DOE approving or rejecting a master program is appealable to the Shorelines Hearings Board. A county or city enforces its approved local shoreline master program.

Within the shoreline area, most development activity with a value in excess of \$2,500, other than single family dwellings, may only be constructed if a shoreline substantial development permit is issued by the county or city. The approval or rejection of a substantial development permit is appealable to the Shorelines Hearings Board.

3. General planning authority.

Counties and cities possess the general authority to adopt comprehensive plans and zoning ordinances.

4. Growth Management Act.

The Growth Management Act (GMA) requires certain counties, and the cities in those counties, to adopt a series of land use regulations culminating in the adoption of a comprehensive plan and development regulations. All other counties and cities are required to take a few actions under the GMA.

With input from cities located within its boundaries, each county planning under all GMA requirements adopts a countywide planning policy guiding the development of the county's and cities' comprehensive plans. Each of these counties designates urban growth areas in which the urban growth is to be located that is projected over the next 20 years for the county. The comprehensive plans that counties and cities planning under all GMA requirements are required to adopt must include a number of specific items, be internally consistent, and be consistent with the comprehensive plans of nearby jurisdictions. Development regulations must be adopted that are consistent with the comprehensive plan.

Three separate Growth Management Hearings Boards are created, with jurisdiction over varying geographic areas in the state, to hear appeals over whether the actions taken by counties and cities are consistent with GMA requirements.

5. Regulatory Reform Task Force.

Governor Lowry created the Governor's Task Force on Regulatory Reform in August, 1993, by executive order and charged the task force to find ways of simplifying rules and regulations in the state.

Summary: This proposed legislation is part of the recommendations of the Governor's Task Force on Regulatory Reform.

1. Integrated project and environmental review process.

An integrated project and environmental review process is established for counties and cities planning under all GMA requirements. Decisions on permit applications are to be based on adopted development regulations, or the comprehensive plan in the absence of development regulations. Comprehensive plans and development regulations determine the types of land use permitted, level of development allowed, and availability and adequacy of public facilities.

The environmental review of a project should not re-analyze land use decisions that have been made in the comprehensive plan and development regulations and does not require additional environmental analysis or mitigation, if the comprehensive plan and development regulations already address the project's probable specific, adverse environmental impacts. If the probable significant, adverse environmental impacts are not adequately addressed, environmental review under SEPA may occur, but only for those impacts that are not addressed in regulations. The

DOE is to develop rules jointly with the Department of Community, Trade and Economic Development (DCTED) to guide counties and cities in conducting integrated project review and environmental analysis.

A county or city planning under all GMA requirements may determine that development regulations provide adequate environmental analysis and mitigation measures for some or all of a project's specific adverse environmental impacts under SEPA. In addition, a county or city planning under all GMA requirements may designate "planned actions" in urban growth areas that have had significant impacts addressed in a previous environmental analysis of a comprehensive plan that do not require a threshold determination under SEPA or the preparation of an EIS.

While reviewing permit applications, counties and cities planning under all GMA requirements are to identify deficiencies in their comprehensive plans and docket these deficiencies for future plan amendments.

2. Financing of integrated environmental analysis.

The Growth Management Planning and Environmental Review Fund is created to make grants to assist counties and cities planning under all GMA requirements in preparing SEPA environmental analyses that are integrated with comprehensive plans or subarea plans and development regulations. A county or city must be making substantial progress toward compliance with GMA to be eligible for a grant.

3. Critical areas.

In designating and protecting critical areas, counties and cities are to use the best available science. In addition, special consideration shall be given to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

4. Growth management hearings board decisions.

A finding of noncompliance by a growth management hearings board, and an order of remand, does not affect the validity of regulations during the period of remand unless the board makes a specific finding of invalidity. A specific order of invalidity is prospective and does not extinguish rights vested prior to the board's order, but a development application that otherwise would vest after the date of the board's order is subject to the county's or city's subsequently adopted regulations in response to the order, if these subsequently adopted regulations are found to be in compliance with the GMA.

The procedure for determining the superior court in which an appeal from a decision of a growth management hearings board may be filed is altered to follow the provisions for appeals from contested decisions under the Administrative Procedures Act.

5. Shorelines Management Act.

Various clarifications are made to the Shorelines Management Act, including how DOE reviews local shoreline master programs and adopts new guidelines controlling local shoreline master programs.

A county or city planning under all GMA requirements must include its shoreline master program as an element in its comprehensive plan. The authority remains for DOE to review and approve or reject the shoreline master program portion of such a comprehensive plan, but appeals from such a decision are made to a growth management hearings board instead of to the shorelines hearings board. Appeals on shoreline substantial development permits still are made to the shorelines hearings board.

Appeals to the shorelines hearings board concerning a substantial development permit must be filed within 21 days of filing a notice of the action with DOE and the board shall issue a final order within 180 days of the date the petition is filed with the board. The procedure for determining the superior court in which an appeal from a decision of the shorelines hearings board on a substantial development permit or non-GMA county or city master program may be filed, is altered to follow the provisions of appeals from contested cases under the Administrative Procedures Act.

6. New permitting processes for counties and cities.

By March 31, 1996, all counties and cities must adopt procedures combining environmental review with project review and must provide for no more than one open record hearing and one closed record appeal.

By March 31, 1996, every county and city planning under all GMA requirements must establish an integrated and consolidated development permit process for all projects involving two or more permits and must provide for no more than one open record hearing and one closed record appeal. The process must include notice of the completeness of the application within 28 days of submission and a single report combining the threshold determination under SEPA with the decision on all development permits and any required mitigation. The applicant is allowed to elect to use the consolidated permitting process that covers all project permits.

A final permit decision by a county or city planning under all GMA requirements must be made within 120 days after the applicant has been notified the application is complete. The 120-day period does not include: (a) Any period during which the applicant is requested to correct plans, perform required studies, or provide additional information; (b) the period during which an EIS is prepared; (c) a period for administrative appeals of permits; and (d) a mutually agreed upon time extension. This 120-day permitting period does not apply to projects that require an amendment of the comprehensive plan or development regulations, new fully contained communities, master planned resorts, or essential public facilities. If an applicant substantially revises the proposal, the 120-day period starts again. Counties and cities are not liable for damages due to failure to make a final decision within this 120-day period. Requirements for the 120-day period expire on June 30, 1998.

The provisions of the Platting and Subdivision Act are altered to incorporate these changes in the permitting process.

DCTED provides training and technical assistance to assist counties and cities in fulfilling these changes in the permitting process.

A county or city that does not plan under all GMA requirements may incorporate some or all of the integrated and consolidated development permit process that is provided for counties and cities planning under all GMA requirements.

7. Hearings examiners.

A county or city may adopt an ordinance providing that the decisions of its hearings examiners, on matters other than rezones, have the effect of a final decision of the legislative body.

8. Development agreements.

Counties and cities planning under all GMA requirements may enter into development agreements with developers establishing development standards for a development and providing for the developer to be reimbursed over time for financing public facilities.

9. State permit coordination procedure.

The state permit assistance office is created within DOE to maintain a list and explanation of permitting laws and to provide a consolidated state permitting procedure that applicants may use at their option and expense. A consolidated permit agency is designated to act as the lead agency and permit manager for the applicant. The Environmental Coordination Procedures Act is repealed. The new consolidated permit procedure must be established by January 1, 1996, and expires on June 30, 1999.

10. Land use petition act.

A new land use petition procedure is established for court appeals of land use decisions and laws. This new procedure is to be used in lieu of the writ of certiorari appeals procedure. An initial hearing on jurisdiction and preliminary matters is required to be held within 50 days of service on parties. The hearing on the merits must be set within 60 days of submission of the record. Provisions are made for staying the decision, paying costs of preparing the record, and supplementing the record in exceptional circumstances. The Court of Appeals or Supreme Court may award attorney's fees to a substantially prevailing party if the party substantially prevailed in all prior judicial proceedings and before the local government. A county or city is considered the prevailing party if its decision is upheld at superior court and on appeal.

11. Study commission.

A 14-member land use study commission is created to: (a) Study the effectiveness of state and local government efforts to consolidate and integrate GMA, SEPA, Shoreline Management Act, and other environmental laws; (b) identify needed revisions; and (c) draft a consolidated land use procedure. DCTED provides staff for the commission. The commission expires on June 30, 1998.

Votes on Final Passage:

House	70	28	
Senate	44	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House			(House refused to concur)
Senate			(Senate refused to recede)
House	94	0	(House concurred)

Effective: July 23, 1995
June 1, 1995 (Sections 801-806)

Partial Veto Summary: The sections were vetoed that amended the definition sections of the GMA and Shorelines Management Act. These sections were amended similarly in other legislation. The null and void section was vetoed.

VETO MESSAGE ON HB 1724-S

May 15, 1995

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 103, 302, and 903, Engrossed Substitute House Bill No. 1724 entitled:

"AN ACT Relating to implementing the recommendations of the governor's task force on regulatory reform on integrating growth management planning and environmental review;"

This is a landmark piece of legislation. The result of eighteen months of work by the Governor's Task Force on Regulatory Reform, it represents a remarkable consensus of business, environmental, labor, neighborhood, and governmental interests. This measure is an example of real regulatory reform. It provides for consolidated and streamlined procedures, encourages more efficient use of both private and public resources, provides for better planning which leads to greater certainty, and maintains and enhances the quality of life in our state.

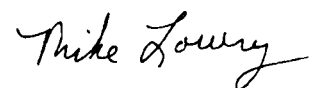
Sections 103 and 302 amend RCW 36.70A.030 and 90.58.030 respectively. These same sections are amended by Engrossed Senate Bill No. 5776. The amendments to these sections in the Senate bill are identical to the amendments included in Engrossed Substitute House Bill No. 1724, with the exception that Engrossed Senate Bill No. 5776 includes an exemption for inadvertent wetlands created as a result of road construction. The language included in Engrossed Senate Bill No. 5776 is preferable to and fully effectuates the changes included in sections 103 and 302 of Engrossed Substitute House Bill No. 1724.

Section 903 provides that this bill will not become law if by June 30, 1995 the legislature fails to enact a budget and reference the bill by number in that budget. Although I do not doubt the legislature will adopt a budget and provide funding, such a provision places this legislation at unnecessary risk.

For these reasons, I have vetoed sections 103, 302, and 903 of Engrossed Substitute House Bill No. 1724.

With the exception of sections 103, 302, and 903, Engrossed Substitute House Bill No. 1724 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 1725

C 293 L 95

Regulating housing authorities.

By Representatives Brumsickle, Wolfe and Conway.

House Committee on Government Operations
Senate Committee on Government Operations

Background: The governing body of any city or county may establish a housing authority. Every housing authority has five housing commissioners, appointed by the mayor of the city or the governing body of the county establishing the authority. Commissioners generally serve five year terms. They do not receive a salary, but are compensated for travel and other expenses they incur. Housing authority commissioners may not be officers or employees of the city or county for which the authority was created.

Housing authorities may issue bonds to finance their activities. These bonds may be secured by a pledge of any grant or contributions from the federal government or other source; a pledge of any income or revenues of the authority, or a mortgage of any housing project or property of the authority. The resolution or other instrument by which a pledge is created must be filed or recorded.

Summary: In counties with a population of less than 175,000 where total government employment exceeds 40 percent of total employment, a housing authority commissioner may be an employee of a separately elected county official, other than the governing body, of the county for which the housing authority is created.

The requirement that pledges made to secure housing authority bonds be filed or recorded is repealed.

Votes on Final Passage:

House	87	11	
Senate	43	0	(Senate amended)
House			(Ruled beyond scope)
Senate	45	0	(Senate receded)

Effective: July 23, 1995

ESHB 1730

C 273 L 95

Revising provisions regarding interest arbitration for law enforcement officers employed by cities, towns, or counties.

By House Committee on Commerce & Labor (originally sponsored by Representative Benton).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

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 (PECBA). For uniformed

personnel, the act recognizes the public policy against strikes as a means of settling labor disputes. To resolve disputes involving these uniformed personnel, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

Until July 1, 1995, the definition of "uniformed personnel" includes, among other groups of employees, law enforcement officers in the larger cities and counties (cities with a population of 15,000 or more, and counties with a population of 70,000 or more). Beginning July 1, 1995, the definition will change for law enforcement officers and will include officers in cities with a population of 7,500 or more and in counties with a population of 35,000 or more. Law enforcement officers include county sheriffs and deputy sheriffs, city police officers, or town marshals.

Summary: For purposes of defining "uniformed personnel" in the Public Employee Collective Bargaining Act, the population threshold for including law enforcement officers is modified beginning July 1, 1997. "Uniformed personnel" will include officers in cities with a population of 2,500 or more and in counties with a population of 10,000 or more.

Technical changes are made to merge multiple amendments to the statute enacted in previous legislative sessions. Amendments to a section repealed on July 1, 1995, are also repealed, with the substance of the amendments reincorporated in a new section.

The Senate Ways & Means Committee and the House Appropriations Committee must compile, by December 15, 1996, a joint report to the Legislature that analyzes and reviews all arbitration awards made since 1973 involving law enforcement officers. The report must include, for each arbitration, the procedural history, identity of the parties, evidence and arguments presented, names of arbitration panel members, and findings and final determination of the issues.

Votes on Final Passage:

House	88	10	
Senate	36	12	(Senate amended)
House	88	8	(House concurred)

Effective: July 1, 1995

ESHB 1741

C 2 L 95 E2

Providing moneys for wine and wine grape research.

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

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Agriculture & Agricultural Trade & Development

Background: The operating budget for the 1995-97 biennium dedicates \$525,000 of the appropriation made to Washington State University (WSU) to wine and wine grape research. The dedicated portion of the appropriation lapses unless this bill is enacted.

Summary: The legislature provides its intent to fund wine and wine grape research at WSU during the 1995-97 biennium.

Votes on Final Passage:

House 89 5

First Special Session

House 83 11

Senate 47 0

Effective: August 24, 1995

SHB 1744

C 110 L 95

Regulating small telecommunications companies.

By House Committee on Energy & Utilities (originally sponsored by Representatives Huff, Kessler, Casada and Campbell).

House Committee on Energy & Utilities
Senate Committee on Energy, Telecommunications & Utilities

Background: Local exchange companies (LECs) provide local telephone service within their exchange boundaries. Washington currently has 21 LECs, which are regulated by the Washington Utilities and Transportation Commission (WUTC). The smallest 17 companies each serve less than 2 percent of the switched access (telephone) lines in the state.

Annual Reports and Budgets: All LECs, regardless of size and like other utilities whose rates and service are regulated by the WUTC, are required by statute to file detailed annual reports and budgets with the WUTC. The WUTC may require additional information and, after a notice and hearing, may reject any item of a budget. Unless an LEC is making expenditures in response to an emergency, the statutory budget provisions apply. An LEC proceeding with a rejected expenditure may not count that

expenditure as an operating expense or as part of the fair value of company property that is used and useful in serving the public, except upon proof that the expenditure is used and useful.

The WUTC may adopt budget rules and may exempt companies in whole or in part from those budget rules.

Securities: As a "public service company," an LEC may issue: (1) evidence of interest or ownership such as stocks and stock certificates; and (2) evidence of indebtedness such as bonds and notes. State law specifies the purposes for which these issuances may be used.

Prior to issuing evidence of interest or ownership or evidence of indebtedness, the public service company must file with the WUTC a description of the issuance and its purposes, terms of financing, and a statement of why the issuance is in the public interest. The WUTC may require a public service company to account for the disposition of all proceeds of the sale of all such issuances and it may adopt rules and regulations to insure the proper disposition of these proceeds.

Transfers of Property: As with other "public service companies," an LEC may sell, lease, assign, or otherwise dispose of all or any part of its franchises, properties, or facilities that are necessary in the performance of its duties to the public only with the authorization of the WUTC. No LEC may merge or consolidate any of its franchises, properties, or facilities with other public service companies without the authorization of the WUTC. Similarly, no LEC may purchase, acquire, or become the owner of franchises, properties, facilities, or capital stocks or bonds of another public service company without prior authorization of the WUTC. The WUTC may adopt rules and regulations to administer these requirements.

Affiliated Interests: As a "public service company," an LEC may enter into: (1) a contract or arrangement with an affiliated interest for providing such things as management, supervisory construction, engineering, accounting, legal, or financial services; or (2) a contract or arrangement with an affiliated interest providing for the sale, lease, or exchange of property only with approval of the WUTC. An affiliated interest essentially is a company or person holding 5 percent or more of the voting securities in the company.

Alternative Forms of Regulation: Telecommunications companies are regulated under a "rate of return" system. Under certain circumstances, telecommunications companies can be regulated in ways other than the traditional "rate of return" regulation. For example, a telecommunications company may petition the WUTC to be regulated under an "alternative form of regulation."

A telecommunications company may submit a petition to the WUTC proposing a plan for an alternative form of regulation. Prior to approving the plan, the WUTC must consider a number of factors. These factors include the extent to which the proposed form of regulation will reduce regulatory delay and costs, encourage innovation in services, promote efficiency, enhance the company's abil-

SHB 1756

ity to respond to competition, provide fair, just, and reasonable rates for all rate payers, and prevent companies from exercising substantial market power in the absence of competition or regulation. The WUTC also can initiate consideration of an alternative form of regulation for a telecommunications company. A company has 60 days to elect not to proceed with the alternative form of regulation as authorized by the WUTC.

Summary: Annual Reports and Budgets: Any LEC that serves less than 2 percent of the access lines in the state (including access lines served by any affiliate of the LEC) is exempt from the detailed annual reporting and budgeting requirements which currently apply to all public service companies. These smaller LECs are not required to submit reports or data to the WUTC except for annual balance sheets and results of operations in Washington State that are separated by jurisdiction. Existing information or reports that are separated by jurisdiction may be sufficient to meet these requirements. In response to customer complaints or on its own, after notice and hearing, the WUTC may establish additional reporting requirements for a specific LEC.

Securities, Transfers of Property, and Affiliated Interests: Any LEC that serves less than 2 percent of the access lines in the state (including access lines served by any affiliate of the LEC) is exempt from authorization and reporting requirements relating to issuance of securities, transfers of property and affiliated interests. In the case of securities, the state of Washington is not obligated to pay or guarantee stock, stock certificates, bonds, or other evidence of ownership or indebtedness issued by an LEC.

Alternative Form of Regulation: A group of telecommunications companies may petition the WUTC to establish an alternative form of regulation.

Votes on Final Passage:

House	98	0
Senate	39	0

Effective: July 23, 1995

SHB 1756

C 313 L 95

Changing provisions relating to dependent children.

By House Committee on Children & Family Services (originally sponsored by Representatives Veloria, Cooke, Cody, Lambert, Thibaudeau, Patterson and Costa).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: If a child is found dependent by the court, the child may be placed with a relative or in a foster care home. Court hearings related to the child's dependency are closed to the general public and the judge may allow a

relative caring for the child or the child's foster parent to attend and provide information about the child to the court.

Summary: The court is required to allow relatives or foster parents caring for a dependent child to attend court proceedings and provide the court with information and evidence about the child to the court, unless the court states on the record why the person should not be allowed to attend.

Votes on Final Passage:

House	98	0	
Senate	43	0	(Senate amended)
House	93	0	(House concurred)

Effective: July 23, 1995

HB 1761

C 69 L 95

Clarifying physical conditions for determining the output of major energy projects.

By Representatives Casada, Hankins, Patterson, Crouse, Huff, Carlson, Morris, Mielke, Mitchell and Kessler.

House Committee on Energy & Utilities
Senate Committee on Energy, Telecommunications & Utilities

Background: In 1970, the Legislature created the Energy Facility Site Evaluation Council (EFSEC) to coordinate the evaluation, siting, and licensing of major non-hydroelectric energy facilities. EFSEC has rulemaking authority.

For facilities falling within its jurisdiction, EFSEC: (1) evaluates the impacts of energy facility proposals; (2) recommends to the Governor whether to approve an energy facility application; (3) imposes conditions on approved projects to ensure safe construction and operation and to minimize adverse impacts; (4) monitors construction, operation, and eventual decommissioning of energy facilities; and (5) enforces compliance with site certification conditions.

Thermal power plants (electricity-generating facilities using fuel, such as gas-fired combined-cycle combustion turbines) of at least 250 megawatts are within EFSEC's jurisdiction.

In 1981, voters approved Initiative No. 394, the Washington State Energy Financing Voter Approval Act. Under the act, a local government is prohibited from selling bonds to finance the construction or acquisition of major electrical generating facilities, which are facilities intended to generate more than 250 megawatts of electricity, unless the voters of the local government approve a ballot proposition authorizing the expenditure of the funds. Provisions are made for the preparation of a cost-effectiveness study of the project by an independent consultant and preparation of a special voters' pamphlet on the proposal that is distrib-

uted to voters in the local governments proposing to participate in the project.

Historically, proponents of a new thermal power plant have relied on the "name-plate rating" to determine whether the plant is within EFSEC's jurisdiction or subject to the Washington State Energy Financing Voter Approval Act. However, a plant that ordinarily generates less than 250 megawatts of electricity may on some occasions, due to weather conditions, generate more than 250 megawatts of electricity. Influential weather conditions include ambient temperature and pressure.

The statutes do not explicitly address situations where a thermal facility ordinarily generates less, but may occasionally generate more, than 250 megawatts of electricity.

Summary: The statutes are amended to specify how to determine whether a thermal power plant is within EFSEC's jurisdiction, or subject to the Washington State Energy Financing Voter Approval Act.

Specifically, a plant's generating capacity is to be determined by assuming average air temperature and pressure, and subtracting the amount of electricity necessary to operate the plant from the plant's maximum possible electricity output under those conditions.

Votes on Final Passage:

House	92	3
Senate	43	2

Effective: July 23, 1995

ESHB 1769

C 12 L 95 E2

Lowering business and occupation tax for insurance business.

By Representatives Mielke, Morris, Campbell, Appelwick, Benton, Kremen, Fuhrman, Mulliken, G. Fisher, Basich, Brumsickle, Van Luven, Skinner, Grant, Boldt, Hymes, Carrell, Chandler, Beeksa, L. Thomas, Foreman, McMahan, Schoesler, Blanton and Thompson.

House Committee on Finance

Background: Washington's major business tax is the business and occupation (B&O) tax. Although there are several different rates, the principal rates are:

Manufacturing, wholesaling, & extracting	0.506%
Retailing	0.471%
Services:	
- Business Services	2.5%
- Financial Services	1.7%
- Other Activities	2.09%

For certain activities, special B&O rates apply. Insurance agents, brokers, and solicitors have a permanent rate of 1.1 percent. In 1993, a surtax of 6.5 percent was imposed on all B&O tax classifications except selected business services, financial services, retailing, and public

and nonprofit hospitals. The surtax was lowered to 4.5 percent on January 1, 1995. The surtax expires July 1, 1997. The surtax is calculated by multiplying each permanent rate to which it applies by 1.045. For example, the 1.1 percent rate for insurance agents becomes 1.15 percent during the time the 4.5 percent surtax is in effect.

Summary: The B&O tax rate for insurance agents, brokers, and solicitors is reduced from 1.1 percent to 0.57 percent. This rate is made up of a permanent rate of 0.55 percent plus the 4.5 percent surtax which expires July 1, 1997.

Votes on Final Passage:

House	91	7
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First Special Session

House	88	9
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Second Special Session

House	84	9
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Senate	44	2
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Effective: July 1, 1995

EHB 1770

C 294 L 95

Revising enforcement requirements for plumbing certificates of competency.

By Representatives Mastin and Grant.

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce & Trade

Background: In 1994, the Department of Labor and Industries was directed to establish a pilot project in Eastern Washington in which it would enter into an agreement with a city to permit enforcement of plumbing certificate of competency laws. Under an agreement, the city would 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 engage in plumbing work unless he or she has a certificate of competency, a temporary permit, or a training certificate. The department issues certificates of competency. Compliance with these requirements are enforced by the department administratively. A notice of infraction is issued and a hearing is provided using administrative law judges, and penalties may be assessed.

Summary: The Department of Labor and Industries may, at its discretion, establish a pilot project in Eastern Washington covering local compliance inspections relating to certificate of competency laws. Participation in the pilot

HB 1771

project is expanded to include the county in which the city is located.

Votes on Final Passage:

House	94	3	
Senate	32	13	(Senate amended)
House			(House refused to concur)
Senate	32	15	(Senate receded)

Effective: July 23, 1995

HB 1771

C 187 L 95

Requiring a handling fee to be paid when a check is dishonored.

By Representatives Hickel, Basich, Padden, Kremen, Chappell and Carrell.

House Committee on Law & Justice

Senate Committee on Financial Institutions & Housing

Background: Damages are statutorily provided for the holder of a bad check. These damages are in addition to recovery of the value of the check itself and a reasonable handling fee.

If the holder has sent a notice to the drawer of the check, and the drawer has not paid within 15 days of the notice, the holder may also recover:

- Interest at 12 percent per year; and
- Up to the lesser of \$40 or the value of the check as collection costs.

If the holder prevails in a lawsuit and has given the 15-day notice, the holder may also recover:

- Prevailing party "costs;"
- Reasonable attorneys' fees; and
- Up to the lesser of \$300 or the value of the check.

The court "costs" that a prevailing party may recover include:

- Filing fees;
- Service of process fees;
- Service by publication;
- Notary fees;
- Reasonable expenses for reports and records that are introduced at trial; and
- Statutory attorneys' fees.

"Statutory" attorneys' fees are \$125. "Reasonable" attorneys' fees are set by the court based on a variety of factors including the amount of time spent on a case and the customary hourly rate charged by attorneys in the area.

If the holder of a bad check has filed a lawsuit, but it has not yet gone to trial, the drawer can satisfy the claim by paying:

- The face value of the check;
- A reasonable handling fee;

- Accrued interest;
- Up to the lesser of \$40 or the value of the check as collection costs; and
- Incurred court and service "costs."

There has been some uncertainty about whether statutory attorneys' fees are recoverable as "incurred" costs when a lawsuit has not gone to trial.

Summary: The amount that the drawer of a bad check must pay before trial in order to satisfy the claim of a holder who has filed suit is explicitly expanded to include statutory attorneys' fees of \$125.

Votes on Final Passage:

House	87	11
Senate	41	3

Effective: July 23, 1995

SHB 1777

C 111 L 95

Requiring specificity in school board resolutions for ballot propositions authorizing indebtedness.

By House Committee on Education (originally sponsored by Representatives Radcliff, Carrell, D. Schmidt, Thompson, Goldsmith, Pelesky, McMahan, Johnson, Smith, Fuhrman, Campbell, Lambert, Casada, Lisk, Mulliken, McMorris, Hargrove, Brumsickle, Clements, Silver, Koster, Backlund, Boldt, Hymes, Mitchell, Skinner and Blanton).

House Committee on Education

Senate Committee on Education

Background: To raise funds for school construction, school districts are required to get approval from voters to issue bonds or to raise funds through a multi-year capital tax levy.

Districts also are eligible for state assistance for capital construction. In recent years, there has been a lag between when the voters approve the bonds or capital levy and when state assistance funds are available.

Prior to elections, school districts inform voters regarding how the proceeds from the election will likely be spent. However, nothing in current law requires the school district to use the funds for the purposes previously stated.

It has been reported that some school districts have used state school construction assistance and capital funds raised through bond elections for projects other than those previously stated.

Summary: Prior to conducting an election on a debt financing measure, a school district must adopt a resolution that specifies the purposes of the debt financing measure and any associated state assistance, including the specific

buildings to be constructed or remodelled and any additional specific purposes.

If the school board subsequently determines that circumstances have changed, the board shall first conduct a public hearing to consider the circumstances and to receive public testimony. If the board determines alterations to the resolution are in the best interests of the district, it may adopt a new resolution or amend the original resolution at a public meeting held after the meeting in which public testimony was received.

Votes on Final Passage:

House	97	1
Senate	37	0

Effective: July 23, 1995

ESHB 1787

C 394 L 95

Restoring certain provisions deleted in 1993.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, R. Fisher, Johnson, Elliot, Buck, Blanton, Robertson, D. Schmidt, Mitchell, Skinner, Tokuda, Benton, Romero, Brown, Hankins, Cairnes, Hatfield, Scott, Quall, Backlund, Ogden, McMahan, Horn, Koster, Schoesler and Mielke).

House Committee on Transportation
Senate Committee on Transportation

Background: During the 1993 legislative session, the interest earned on transportation-related accounts was transferred from those accounts to the state general fund and spent on general government purposes. Only two accounts, the motor vehicle fund and the transportation fund, were permitted to keep their interest earnings.

The interest earnings were transferred to the state general fund because the state general fund was projecting a revenue shortfall for the 1993-95 biennium.

Under Initiative 601 (I-601), the general fund spending limit takes effect on July 1, 1995. The revenue projected for the state general fund is greater than the amount that can be spent during the 1995-97 biennium.

The I-601 spending limit applies only to general fund expenditures. The initiative does not restrict expenditures from the transportation-related accounts.

There are some accounts that contain gas tax revenues, which are restricted to use for "highway purposes" under the 18th Amendment to the state constitution. The interest on these moneys, however, is being spent on general government purposes. It is not clear whether this use of 18th Amendment money for non-highway purposes is constitutional.

If the interest earnings are restored to the transportation-related accounts prior to July 1, 1995, the Office of Financial Management has ruled that the general fund spending limit does not need to be lowered.

Summary: Eighty percent of interest earnings on transportation-related accounts will remain in those accounts, rather than being transferred to the state general fund to be spent for general government purposes. This restores the law as it existed prior to the 1993 legislative session.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 1, 1995

HB 1790

PARTIAL VETO

C 188 L 95

Changing appointment provisions for the director of a combined city and county health department.

By Representatives Reams, R. Fisher, Sommers and Dyer.

House Committee on Government Operations
Senate Committee on Government Operations

Background: Each local board of health is authorized to appoint a local health officer. The local health officer is responsible for enforcing the state public health laws. The local health officer does not serve for any fixed term of office, but may only be removed after being provided with a hearing.

Any city with a population of 100,000 or more and the county in which it is located may establish a combined city and county health department. A local health officer is appointed to enforce the public health laws, but if the county has a population of 500,000 or more, a director of public health is appointed to enforce the public health laws.

The director of public health in a combined city-county health department is appointed by the county executive and the mayor for a four-year term. A majority of the legislative authorities of the county and the city must confirm the appointment. The director may be removed by the county executive after consulting with the mayor, and upon filing a statement of the reasons with the legislative authorities of the county and city.

Summary: The four-year term of office for a director of public health in a combined city-county health department is eliminated.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 23, 1995

SHB 1809

Partial Veto Summary: The veto removes the bill's emergency clause.

VETO MESSAGE ON HB 1790

May 1, 1995

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. 1790 entitled:

"AN ACT Relating to the appointment of the director of a combined city and county health department;"

This bill deletes specific mention of a term of employment for the directors of combined city/county health departments, thereby making their employment consistent with that of the public health officers in other districts.

This legislation includes an emergency clause in section 2. In contacting the principal proponents of this measure, my office has been informed that, although this new language will prove of great importance, no jurisdiction faces an immediate issue due to this change as was the case earlier. Given this change of circumstance, preventing this bill from being subject to a referendum under Article II, section 1(b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

With the exception of section 2, House Bill No. 1790 is approved.

Respectfully submitted,



Mike Lowry
Governor

SHB 1809

C 295 L 95

Authorizing naturopaths to give direction to registered nurses.

By House Committee on Health Care (originally sponsored by Representatives Dyer and Dickerson).

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

Background: Registered nurses and licensed practical nurses may work under the direction of a physician, a dentist, an osteopathic or podiatric physician or physician assistant, or an advanced nurse practitioner. The law does not, however, authorize registered nurses or licensed practical nurses to work under the direction of a naturopathic physician.

Summary: Registered nurses and licensed practical nurses are authorized to practice under the direction of a naturopathic physician, consistent with the nurses' scopes of practice. The Nursing Care Quality Assurance

Commission is required to develop rules for nurses practicing under the direction of naturopathic physicians.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: August 1, 1996

ESHB 1810

C 359 L 95

Changing the scope of cleanup standards for remedial actions under the model toxics control act.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Honeyford, Thompson and L. Thomas).

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

Background: The Model Toxics Control Act (MTCA), adopted through the initiative process in 1987, does not establish specific hazardous waste cleanup standards. Instead, it directs the Department of Ecology (Ecology) to establish and periodically update cleanup standards, which must be "at least as stringent" as the cleanup standards under the federal Superfund law and all other "applicable" federal and state laws, including health-based standards.

In 1991, the department adopted rules establishing general cleanup standards and methods to establish cleanup standards for specific sites. In general, the rules provide three basic methods (A, B, and C) for determining the level of cleanup at a site.

Method A establishes specific numeric cleanup standards for 25 specific contaminants. This method is used for sites that have only a few types of contaminants, and then only for sites with contaminants for which standards have been set. Method B provides a standard method for determining cleanup levels for ground water, surface water, soil, and air that is based on a site specific risk assessment. The risk assessment uses a number of assumptions that are determined by the department. Examples of these assumptions include: how much contaminant could be ingested; toxicity of the contaminant, body weight of the person ingesting a contaminant, how much risk is acceptable, etc. Method C provides a "conditional" method involving site-specific risk assessment and is used when Methods A and B may be impossible to implement or may cause greater environmental harm. Method C is similar to Method B in that it allows a site specific risk assessment. Unlike method B, method C assumes that "acceptable risk" for cancer causing substances is one in 100,000. Method B uses an acceptable risk assumption of one in one million.

In 1991, Ecology adopted rules to establish soil cleanup standards for industrial sites. The rules allowed these industrial sites to use less stringent cleanup standards if institutional controls are used (i.e. keeping the land in industrial use, fences, etc.). The rules specified the standards could be used only at large industrial areas. Legislation enacted in 1994 broadened the scope of when the industrial soil cleanup standards could be used. The department is currently writing rules to implement this legislation.

Summary: A policy advisory committee is created to review the model toxics control act and the cleanup standards adopted by the Department of Ecology. The committee is to consist of: (1) four legislators; (2) the directors of the departments of Ecology and Health or their designees; (3) one member representing each of the following groups: the science advisory board, environmental industries, ports, cities, and counties; and (4) four members representing (small and large) businesses, and four members representing citizens and environmental organizations. The Department of Ecology is to select three additional members based on recommendations from the committee. The committee must submit a report to the Legislature identifying the priority issues it intends to address by December 15, 1995. By December 15, 1996, the committee must submit a final report to the Legislature. Provisions for reimbursing task force members are specified.

The policy advisory committee is directed to select two pilot projects to evaluate the effectiveness of the alternative cleanup standards. The sites chosen for the pilot project must meet certain requirements, including having multiple potentially responsible parties and community support. The potentially liable parties may submit their own risk analysis for inclusion in the department's cleanup study. The project managers from the department and the lead potentially liable party must submit interim and final reports on the progress of the pilot projects to the policy advisory committee.

Votes on Final Passage:

House	86	11	
Senate	47	0	(Senate amended)
House	92	2	(House concurred)

Effective: July 23, 1995

2SHB 1814

C 7 L 95 E1

Changing provisions relating to the Washington award for vocational excellence.

By House Committee on Appropriations (originally sponsored by Representative Carlson).

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

Background: In 1984, the Legislature created the Washington Award for Vocational Excellence (WAVE) program. Through the annual award program, up to three students in each legislative district are honored for their outstanding performances in occupational training programs. The students are selected for their achievements, leadership abilities, and community contributions. At least two of the three students selected in each legislative district are expected to be graduating high school students. The program is administered by the Workforce Training and Education Coordinating Board.

Recipients of the WAVE award are eligible for a tuition and fee waiver at all state colleges and universities. The recipients may receive the waiver for up to two years of postsecondary work if they have entered a state college or university within three years of high school graduation. In order to receive a waiver in the second year of their studies, they must maintain at least a three point grade point average or an above average rating at a technical college.

Colleges and universities must waive tuition and fees for students who received their WAVE award before June 30, 1994. Technical colleges must waive tuition and fees for students who receive their award after that date. Other state colleges and universities have the option of providing full, partial, or no waivers to students who receive their award after that date.

Summary: State supported colleges and universities will waive tuition and fees for up to two years for WAVE recipients who received their award before June 30, 1994. The Higher Education Coordinating Board will administer a grant program for students who receive their award after that date. The recipients will not receive a tuition waiver. Instead, they are eligible for a grant that does not exceed the annual tuition and fees at a research university. Students may use the grant to attend an institution of higher education, independent college or university, or licensed private vocational school located in the state of Washington. In order to receive a grant, recipients must enter a college, university, or private vocational school within three years of high school graduation. Recipients must attain at least a three-point grade point average or, at a

ESHB 1820

technical college, an above average rating in order to receive a grant in the second year of their studies.

Votes on Final Passage:

House 96 0

First Special Session

House 92 0

Senate 44 0

Effective: August 22, 1995

ESHB 1820

C 360 L 95

Regulating towing of vehicles.

By House Committee on Transportation (originally sponsored by Representative K. Schmidt).

House Committee on Transportation

Senate Committee on Transportation

Background: State statute regulates only those tow truck operators who impound vehicles from private or public property and/or tow for law enforcement agencies. Impounds, i.e., the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered tow truck operators (RTTOs). If on public property, the impound is at the direction of a law enforcement officer; if the vehicle is on private property, the impound is at the direction of the property owner or his agent.

RTTOs are issued a tow truck permit by the Department of Licensing (DOL), following payment of a \$100 per company and \$50 per truck fee, plus an inspection by the Washington State Patrol. RTTOs must also file a surety bond of \$5,000 with DOL and meet certain minimum insurance requirements.

RTTOs are permitted a deficiency lien against the registered owner of an impounded vehicle of up to \$300 for towing and storage services.

Tow trucks are also used by nonregistered operators that, for example, manage gas stations, repair shops and auto dealerships. These trucks are used to aid the underlying business and may not be used for impounding or responding to law enforcement calls.

Summary: Tow trucks towing vehicles or vehicles towing trailers must use safety chains. Failure to use safety chains is a class 1 civil infraction, the maximum penalty for which is \$250 (not including statutory assessments).

Anyone engaging in the business of recovery of disabled vehicles for monetary compensation must either be a registered tow truck operator (RTTO) or, at a minimum, have insurance in the same manner and amount as an RTTO and submit to a safety inspection of his or her tow trucks.

Items of personal property that are registered or titled with the Department of Licensing (DOL) may be sold at

auction to fulfill a lien against the registered owner of an abandoned vehicle. However, such items of personal property are subject to the same notice requirements as impounded and abandoned vehicles.

The deficiency lien for services rendered in towing and storage of a vehicle is a maximum of \$500, not including the amount received for the vehicle at auction.

The statute pertaining to driving with a suspended or revoked license is made consistent with the RTTO chapter insofar as impounds are concerned. That is, it makes the registered owner, rather than the driver, responsible for towing and storage costs, even if the driver who was operating the vehicle at the time the impound was directed is not the registered owner of the vehicle.

No one may occupy a vehicle while it is being towed by a commercial tow truck.

Votes on Final Passage:

House 88 10

Senate 44 0 (Senate amended)

House 88 5 (House concurred)

Effective: July 23, 1995

ESHB 1821

C 296 L 95

Modifying unemployment compensation for persons employed under public employment contracts.

By House Committee on Commerce & Labor (originally sponsored by Representatives Kessler, Buck, Quall, Carlson, Casada and Basich).

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce & Trade

Background: To be considered unemployed under the unemployment insurance law, a person either must be performing no services for remuneration or must be a qualified partially unemployed person.

If the person is receiving previously accrued compensation during a nonwork period, and that compensation is assigned to a specific period by an agreement with the employer, customary trade practice, or request of the person, then the compensation is considered remuneration for that period. If the payments make the person eligible for regular fringe benefits, then the payments are considered to be assigned for that period of time. Certain payments, such as severance pay, are not considered remuneration that can be assigned to a nonwork period. These provisions concerning assignment of accrued compensation do not apply to persons employed by educational institutions.

Federal law requires the states to deny certain unemployment insurance benefits to instructional and administrative employees who work for public and non-profit educational institutions. These employees may not receive benefits for unemployment that occurs between two successive academic years or terms if the employee

has reasonable assurance that he or she will reemployed for the same services in the next academic year or term. "Reasonable assurance" is defined as a written, verbal, or implied agreement that the employee will be reemployed in the same capacity.

In a recent Washington Court of Appeals case, the issue before the court was whether the state statute implementing this federal requirement prohibits unemployment benefits during the summer quarter for a part-time community college teacher who is reasonably assured of teaching the following term. The court held that benefits were allowed because the summer quarter was an academic term. The Employment Security Department was advised by the U.S. Department of Labor that this decision raises a federal conformity issue.

Summary: Assignment of settlements related to public employment contracts. For unemployment insurance purposes, an individual who receives a settlement or other proceeds as a result of a negotiated settlement to terminate an employment contract with a public agency is considered to be receiving remuneration. The proceeds will be assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract. The exemption of educational institution employees from the provisions assigning remuneration is modified so that these employees are covered by these new assignment provisions.

Employment at educational institutions. For unemployment insurance determinations involving services by part-time faculty at community colleges and technical colleges, "academic year" means fall, winter, spring, and summer quarters or comparable semesters, unless objective criteria, including enrollment and staffing, show that the term is not in fact part of the educational institution's academic year. A statement is added that the Legislature intends this change to clarify that for the part-time faculty at two-year institutions of higher education, summer may be expected to be a time of employment, unless otherwise shown. However, this change is not intended to modify the rules applied to other educational employees.

"Reasonable assurance" for determining eligibility for benefits between successive academic years or terms for part-time faculty at community colleges and technical colleges is modified. An agreement that is contingent on enrollment, funding, or program changes is not reasonable assurance of employment in the ensuing academic year or term.

Votes on Final Passage:

House	95	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	45	0
House	91	0

Effective: May 9, 1995

SHB 1853

C 395 L 95

Requiring juvenile offenders to post a probation bond in specified cases.

By House Committee on Law & Justice (originally sponsored by Representatives Smith, Padden, Campbell, Koster, Johnson, Blanton, Silver, Benton and Thompson).

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

Background: Posting of Bonds and Disposition Alternatives for Juvenile Offenders: In certain circumstances, a judge may require an offender, whether an adult or juvenile, to post a bond. In most cases, a bond is posted to ensure the offender's appearance at the next court date and to ensure the offender's compliance with conditions of release. In some jurisdictions, such as California, courts may require an offender to post a bond as part of the sentence.

When a juvenile is adjudicated of an offense, the court imposes a disposition under a disposition grid. Many of those dispositions involve placing the juvenile on community supervision.

Miscellaneous Technical Revisions: Last year, the Legislature passed E2SHB 2319 which was a comprehensive bill governing juveniles. A few technical errors were made. In one case, the Legislature intended to create a suspended disposition option for certain offenders with 110 points or more. The suspended disposition option was inadvertently also applied to offenders with less than 110 points. The Legislature also created another disposition alternative, termed the deferred adjudication alternative. An error was made in the procedural provisions by providing that the time period for deferred adjudication runs from the date of entry of the plea or finding of guilt rather than from the date the court grants the motion for deferred adjudication.

Summary: Probation Bond Provisions: A court may order a juvenile to post a bond or other collateral in lieu of a bond to enhance public safety, increase the likelihood that the juvenile will appear as required to respond to charges, and increase compliance with community supervision. This bond is called a "probation bond." The parents or guardians of the juvenile may sign for the bond. A parent or guardian, in addition to the surety, has a right to notify the probation officer, prosecuting attorney, and court, if the juvenile violates any of the terms and conditions of the bond.

The court may require posting of a probation bond in the following circumstances:

1. As a condition of release following arrest;
2. As a condition of release from detention following filing of charges;

SHB 1856

3. As a condition of community supervision under various disposition options, including dispositions that include community supervision.

When a juvenile offender willfully violates the terms of the probation bond or community supervision, the court may either keep the bond in effect or modify or revoke the probation bond. The surety and the parent must agree to any modification. The court has discretion not to impose a penalty on the parents or surety, or to impose a penalty less than the full amount of the bond. Otherwise, the same rules that apply to revocation and forfeiture of bonds in adult criminal cases apply to revocation and forfeiture of probation bonds.

A surety must be qualified under state insurance laws or by the Department of Licensing, licensed to write corporate, property, or probation bonds within the state, and approved by the superior court of the county having jurisdiction of the case.

Ten dollars of the bail amount is a nonrefundable fee payable to the county.

Miscellaneous Technical Revisions: Technical problems that were created in last year's bill E2SHB 2319 are corrected.

The dispositions for middle offenders with less than 110 points may not be suspended; the language is clarified so that the suspension provision only applies to middle offenders with 110 points or more who are placed on community supervision under option B rather than sent to an institution.

The procedure for implementing a deferred adjudication is corrected to provide that the one year deferred adjudication time period runs from the date the motion for deferred adjudication is granted.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 23, 1995

SHB 1856

C 70 L 95

Clarifying the liability of lenders under the model toxics control act.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Blanton, Costa, Dickerson, D. Schmidt, Thompson, Radcliff, Sherstad, Beeksma and Romero).

House Committee on Financial Institutions & Insurance

House Committee on Law & Justice

Senate Committee on Financial Institutions & Housing

Background: In 1980, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). CERCLA makes past or present owners and operators of sites

containing hazardous waste, as well as the generator or transporter of the waste, jointly and severally liable for the cleanup costs. An exception is provided for lenders' security interests. While many courts hold that a lender must participate in the management of a business to incur liability, and that merely acquiring ownership through foreclosure is not sufficient to make lenders liable, some courts have narrowly defined this security interest exemption, finding banks liable by merely acquiring title through foreclosure or by having the capacity to influence the owner or operator.

In 1993, the Environmental Protection Agency (EPA) adopted a rule clarifying CERCLA's security exemption for lenders. This rule clarified that a lender could acquire title to protect its security interest and still not be liable under CERCLA as an owner or operator. The rule also clarified that a lender could temporarily manage the facility or site after acquiring title. This rule was struck down by the court in 1994; the court held that the EPA lacked statutory authority to enact this rule.

Washington adopted the Model Toxics Control Act (MTCA) by initiative in 1989. This law is similar to CERCLA. It 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. An exception is provided for lenders' security interests.

Summary: The Washington Model Toxics Control Act is modified to clarify the liability of lenders. A lender is not liable as an owner or operator if the lender acquires title to a site that has hazardous waste simply by foreclosing under the security agreement. A lender can operate or participate in management of a facility or site without being liable under the MTCA, so long as the lender complies with certain statutory provisions. Operating or participating in management of a facility or site must be related to preparing the site for sale or protecting the lender's interest, and can only be done up to one year prior to acquiring title or up to five years after acquiring title.

Votes on Final Passage:

House	98	0
Senate	44	0

Effective: July 23, 1995

HB 1858

C 241 L 95

Establishing the office of crime victims advocacy in the department of community, trade, and economic development.

By Representatives Ballasiotes, Costa, Robertson, Cody, Morris, Regala, Chopp, Ogden, Mitchell, Tokuda,

Appelwick, Honeyford, Radcliff, Blanton, Dickerson, Campbell, Conway, Kessler and Ebersole.

House Committee on Government Operations
Senate Committee on Government Operations

Background: The Office of Crime Victims Advocacy was created by executive order in 1990 and placed in the Department of Community, Trade, and Economic Development. The office provides ombudsman service to crime victims by helping them locate and obtain services in their communities.

The office currently administers a grant program to enhance the funding for community-based treatment services available to victims of sex offenders.

These grants are awarded on a competitive basis to local governments, nonprofit community groups, and nonprofit treatment providers. Activities that can be funded through this grant program are limited to: (1) activities that provide effective treatment to victims of sex offenders; (2) activities that increase access to and availability of treatment for victims of sex offenders, particularly underserved populations; and (3) activities that create, coordinate, or build on existing programs to make effective use of resources to provide treatment services to victims of sex offenders.

Summary: The Office of Crime Victims Advocacy is established by statute in the Department of Community, Trade, and Economic Development. The office is directed to administer grant programs for sexual assault treatment and prevention services, assist communities in planning and implementing services for crime victims, advocate on behalf of crime victims in obtaining needed services and resources, and advise local and state governments on practices, policies, and priorities that impact crime victims.

Votes on Final Passage:

House	97	0	
Senate	39	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 23, 1995

SHB 1865

C 297 L 95

Clarifying numerous miscellaneous guardianship provisions.

By House Committee on Law & Justice (originally sponsored by Representatives Mitchell and Tokuda).

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

Background: Superior courts have the authority to appoint a guardian to represent an incapacitated person and/or that person's estate. A person may be deemed incapacitated if the person is incapable of providing for his or her basic needs, if the person is incapable of adequately

managing his or her finances or property, or if the person is a minor. A court may also appoint a limited guardian for a person with less severe incapacities.

Any person over the age of 18 and any parent may serve as a guardian if the court deems them to be suitable. The guardian is at all times under the direction and control of the court. A guardian is allowed reasonable compensation for his or her services and administrative costs, subject at all times to approval by the court. Any person may petition the court to modify or terminate a guardianship.

Prior to appointment of a guardian for an incapacitated person, the court must receive a written report from an examining physician or psychologist regarding the incapacitated person's condition. Current law has been interpreted to require this examination within 30 days of the court hearing to appoint a guardian.

The appointment of a legal guardian or limited guardian does not affect the authority of the court to appoint a guardian ad litem to represent the interests of the incapacitated person in court proceedings.

Summary: Changes are made to a number of code sections regarding guardianship.

Notice of the commencement of guardianship proceedings must be provided within five court days of filing of a guardianship petition. Notice of the hearing to appoint a guardian is to be sent to the last known address of each person to be notified.

Prior to the appointment of a guardian for an incapacitated person, the court must receive a written report from a physician or psychologist regarding the person's condition. The examination by the physician or psychologist must be performed within 30 days of the preparation of that report, rather than within 30 days of the appointment hearing. In addition, guardianships based on minority are exempted from the medical report requirement.

For cases in which a guardian ad litem has been appointed to represent an incapacitated person in court, the number and nature of persons to whom the guardian ad litem must send his or her report is changed. In addition to immediate family members and anyone who has requested special notice, the guardian ad litem need only send his or her report to persons with significant interest in the welfare of the incapacitated person.

Unless otherwise ordered, appointment of a guardian for an estate automatically revokes any powers of attorney. Appointment of a guardian for a person requires the court to make a finding regarding any existing medical powers of attorney.

The court is given discretion regarding the appointment of a guardian ad litem to review the report of a guardian for the purposes of settling an intermediate guardianship account. Intestate estates are included in the provisions for settlement of terminated guardianship accounts, and the court is given authority to appoint a guardian ad litem to review the final settlement of a guardianship account.

HB 1866

The Department of Social and Health Services is given the right to notice of, access to, and participation in any hearings which affect the assets of an incapacitated person, if that person is a client of the department and is required to contribute to the cost of residential or support services.

Several technical changes are made, including amending incorrect references and outdated grammar and adding gender neutral language.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	88	0	(House concurred)

Effective: July 23, 1995

HB 1866

C 153 L 95

Revising certain aeronautics statutes.

By Representatives Elliot, K. Schmidt and Benton.

House Committee on Transportation
Senate Committee on Transportation

Background: The Aviation Division of the Department of Transportation inspects airports and offers airport operators technical advice on construction, repairs and lighting. The division also establishes standards for constructing airports and participating in air search and rescue activities and conducting accident investigations.

Summary: The Aviation Division of the Department of Transportation is responsible for conducting and managing air search and rescue missions.

A section in statute relating to the Civil Air Patrol and the department's authority to contract with the patrol is repealed. The repeal does not affect either the patrol's ability to search and rescue or the department's ability to pay the patrol's pilots.

When deciding which structures are safety hazards, the division may consider obstacles near airports and runway departure and approach areas as defined by federal air regulations.

Votes on Final Passage:

House	96	0	
Senate	47	0	

Effective: July 23, 1995

SHB 1871

C 298 L 95

Providing equalization for transit systems imposing an utility tax.

By House Committee on Transportation (originally sponsored by Representatives Sheahan and Schoesler).

House Committee on Transportation
Senate Committee on Transportation

Background: Transit agencies are authorized to impose, with voter approval, a sales and use tax of up to 0.6 percent, a business and occupation (B&O) tax with a rate set by the agency, or a household tax of up to \$1 per month per housing unit. Of the 24 transit agencies in the state, 22 collect sales and use tax of from 0.1 percent to 0.6 percent. Of the other agencies, Pullman Transit collects a 2.0 percent B&O tax on utility businesses and Prosser Rural Transit collects a \$1-per-month household tax and a 6.0 percent B&O tax on gross business receipts. Only \$49,000 of Prosser's receipts from these taxes are allocated to transit with the remainder allocated to the city's general fund.

Substitute House Bill 2760, passed in 1994, authorized sales and use tax equalization payments to transit agencies whose average per capita transit sales and use tax collections in the preceding calendar year were less than 80 percent of the statewide per capita average sales and use tax collections for that period. Transit equalization payments will begin in calendar year 1996 and are available only to agencies collecting the transit sales and use tax. Equalization payments may not exceed 50 percent of a transit agency's sales and use tax collections for the previous year.

Transit sales and use tax equalization is paid from motor vehicle excise tax receipts that would otherwise be available for appropriation from the transportation fund.

Summary: Transit agencies imposing the household tax for transit or the business and occupation tax for transit are eligible for transit sales and use tax equalization payments. The equalization payments are based on a local transit tax rate. This rate is equivalent to the sales and use tax rate that would have generated the same amount of revenue in the previous year as the local transit taxes in place during that period.

Votes on Final Passage:

House	96	0	
Senate	44	4	(Senate amended)
House	95	0	(House concurred)

Effective: July 23, 1995

HB 1872

C 299 L 95

Modifying the authority of the board of physical therapy.

By Representatives Crouse, Dyer, Dellwo, Wolfe, Morris, Sherstad, Conway, Cody and Padden.

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

Background: The Board of Physical Therapy, under its general rulemaking authority, provides for the use of supportive personnel such as physical therapy assistants. However, there is no specific authority for defining the education and training requirements nor disciplinary procedures for supportive personnel.

Summary: The Board of Physical Therapy is expressly authorized to adopt rules specifying the education and training requirements for physical therapy assistants and aides.

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

SHB 1873

C 112 L 95

Regulating consumer leases.

By House Committee on Law & Justice (originally sponsored by Representatives Padden and Costa; by request of Attorney General).

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

Background: When an individual leases a motor vehicle, he or she enters into a lease agreement with a dealer or an independent leasing company. Under some lease agreements, the individual (lessee) pays a periodic lease payment for a fixed period of time. After the lease period expires, the lessee is given the option to purchase the vehicle. If the lessee does not buy the vehicle, the lease terminates. If the lessee breaks the lease before the lease period expires, he or she may be subject to significant financial consequences. This type of lease is called a closed end lease.

In a closed end lease, the periodic lease payments are based on the motor vehicle's "adjusted capitalized cost." To determine the adjusted capitalized cost, the dealer (lessor) assigns an overall value, or "capitalized cost" to the motor vehicle. Any money paid to the dealer at the beginning of the lease, called the "capitalized cost reduction," is then subtracted from the overall value of the motor vehicle.

The federal Consumer Leasing Act and state law regulate leases of personal property when the total contractual obligation does not exceed \$25,000. Neither federal nor state law requires the lessor to disclose to the lessee the capitalized cost, the capitalized cost reduction, or the adjusted capitalized cost of a motor vehicle in closed end leases. In addition, neither law requires lease agreements to state explicitly the potential costs associated with breaking closed end leases.

The Washington Consumer Protection Act prohibits certain trade or commercial practices. A practice violates the Consumer Protection Act if it is unfair or deceptive, if it affects the public interest, if it occurs in the context of trade or commerce, and if consumers are damaged as a result of the practice. A practice does not violate the Consumer Protection Act if it is reasonable in relation to the development or preservation of business. Violations of the state law regulating consumer leasing are unfair practices in commerce for the purpose of applying the Consumer Protection Act.

In Washington, lessors of motor vehicles often use a separate document to explain the Washington sales tax exemption for the value of a traded motor vehicle. Federal law requires that a single document lay out all terms and conditions of a lease agreement. State law is silent on this issue.

Summary: Consumer leases of automobiles are not subject to the \$25,000 limitation on the total contractual obligation for application of the state law regulating consumer leases.

The terms "capitalized cost," "capitalized cost reduction," and "adjusted capitalized cost" are defined. "Capitalized cost" is the value the lessor ascribes to the vehicle being leased. The capitalized cost includes optional equipment, taxes, fees, insurance, and other charges. The "adjusted capitalized cost" is the capitalized cost reduced by any "capitalized cost reduction," defined as any payment, trade, or rebate granted by the lessor at the beginning of the lease made for the purpose of reducing the capitalized cost. The adjusted capitalized cost serves as the basis for determining the periodic lease payments.

In consumer leases of motor vehicles, the lessor must disclose the capitalized cost, capitalized cost reduction, and adjusted capitalized cost to the lessee. The capitalized cost and capitalized cost reduction amounts must be itemized. The lease agreement must contain a warning statement about costs associated with early termination of leases. The agreement must also contain a statement of the amount of any sales tax exemption on a trade-in value as it applies to the periodic lease payments.

The following practices related to vehicle leases are unlawful: (1) false, deceptive, or misleading advertising; (2) misrepresenting material terms or conditions of the lease agreement, such as that the lease agreement is a purchase agreement, or that the consumer will have equity in

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the vehicle at the end of the lease term; or (3) failure to comply with the federal Consumer Leasing Act.

For purposes of the Consumer Protection Act, practices covered by state laws governing consumer leases are declared to affect the public interest. A violation of state laws governing consumer leases constitutes unfair competition. In addition, violations of state laws governing consumer leases are declared not reasonable in relation to the development and preservation of business. These provisions make violations of state laws governing consumer leases per se violations of the Consumer Protection Act. A court may award damages under either federal or state law, but not both.

The provisions of the state laws governing consumer leases are cumulative and not exclusive of other available remedies.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: January 1, 1996

EHB 1876

FULL VETO

Modifying provision of dental services by certified health plans.

By Representatives Dyer and Dellwo.

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

Background: The Washington Health Services Act of 1993 requires certified health plans (CHPs) to offer, at a minimum, the full uniform benefits package (UBP). The only exception to the requirement is dental-only CHPs. Such CHPs were allowed to offer dental services as a separate, or "unbundled," service. The dental-only CHPs authorization was passed in two separate bills and codified in two different chapters of law. In implementing the 1993 act, the Washington Health Services Commission found inconsistencies in the two provisions.

Summary: Insuring entities are permitted to offer coverage for dental services as part of, or separate from, the UBP, consistent with certification rules set by the Insurance Commissioner. Such permission is not intended to convey a market advantage for dental-only CHPs. The Washington Health Services Commission and the Insurance Commissioner must develop and enforce separate cost containment requirements, including separate community-rated premium submaximums and enrollee financial participation submaximums.

Dental-only CHPs are required to comply with all applicable laws governing the financial supervision and solvency of such organizations, including laws concerning

capital and surplus requirements, reserves, deposits, bonds, and indemnities.

Votes on Final Passage:

House	98	0
Senate	41	0

VETO MESSAGE ON HB 1876

May 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed House Bill No. 1876 entitled:

"AN ACT Relating to the modification of provisions governing certified health plans providing dental benefits only;"

The restructuring and modifications to the 1993 Health Services Act made in Engrossed Substitute House Bill No. 1046, which I have already signed into law, allow for services as envisioned under Engrossed House Bill No. 1876 and eliminates the need for the dental service plans permitted by this legislation.

For this reason, I have vetoed Engrossed House Bill No. 1876 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

HB 1879

C 300 L 95

Revising provision for costs of support, treatment, and confinement of juvenile offenders.

By Representative Boldt.

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: When a juvenile is ordered to serve time in a state juvenile facility, the juvenile's parents or other legally obligated person must pay, at least in part, the costs of supporting, treating and confining the juvenile, pursuant to a schedule developed by the Juvenile Rehabilitation Administration.

The juvenile's parents or other legally obligated person can be obligated to pay these costs even when the juvenile's offense was committed against another person in that family. A concern exists that the juvenile's family should not be required to pay for these costs when the family itself is the victim of the juvenile's offense.

Summary: A juvenile's parent, or other legally obligated person, is not required to pay costs of support, treatment, and confinement of the juvenile if the juvenile is being confined in a state juvenile facility for an offense that was

committed against the parent or other legally obligated person, or such person's child, spouse, or spouse's child.

Votes on Final Passage:

House	92	6	
Senate	47	1	(Senate amended)
House	94	1	(House concurred)

Effective: May 9, 1995

EHB 1889

C 301 L 95

Administering the office of the state auditor.

By Representatives L. Thomas, Backlund, Huff and Chappell; by request of State Auditor.

House Committee on Government Operations
Senate Committee on Government Operations

Background: Current statutes require the State Auditor's Office to establish a Division of Municipal Corporations and a Division of Departmental Audits. The Auditor is also authorized to appoint one assistant state auditor and such deputies and assistants as deemed necessary. The State Auditor has suggested that more flexibility is needed to organize and administer the office in order to keep it operating efficiently.

The Municipal Revolving Fund is created in the custody of the State Treasurer for the purposes of centralized funding, accounting, and distribution of the costs of audits performed by the State Auditor. Moneys in the fund may only be spent after appropriation by the Legislature.

There is no statutory requirement for public officials to report the actual or suspected loss of public funds to the State Auditor.

The Governor may from time to time provide for a post-audit of the accounts and records of the State Auditor's Office, as well as any funds under the auditor's control. The audit must be performed by independent qualified public accountants or the director of the Office of Financial Management. There is no requirement that the State Auditor's Office be audited on a regular basis.

Many statutes requiring audits of local governments refer to taxing districts. A number of units of local governments do not have taxing authority.

Each applicant for a marriage license must file an affidavit stating that they are not afflicted with any contagious venereal disease.

Summary: References to the Division of Municipal Corporations and the Division of Departmental Audits are deleted. The State Auditor may appoint such deputies and assistant directors as deemed necessary. Deputies and assistant directors appointed by the auditor are exempt from civil service laws. The auditor may also employ other assistants and personnel necessary to carry out the work of the office. The Municipal Revolving Fund is

reconstituted as an account and is no longer subject to appropriation.

State agencies and local governments must immediately report any known or suspected loss of public funds or assets, or other illegal activity, to the State Auditor's office.

The Governor must provide for an audit of the State Auditor's Office at least once every two years. References to local governments are standardized and other technical amendments are made.

Applicants for a marriage license must file an affidavit form with the county auditor which states that if an applicant is afflicted with a sexually-transmitted disease, the condition is known to both applicants.

Votes on Final Passage:

House	97	1	
Senate	47	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 1995

HB 1893

C 189 L 95

Authorizing the secretary of corrections to delegate authority to certify records and documents.

By Representatives Ballasiotes and Blanton.

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: The Department of Corrections maintains records on inmates serving sentences in state prisons. From time to time the department receives subpoenas to have its records certified so they can be used in court hearings. Records of public agencies are admissible in court when they are certified by the officers who by law have custody of those records.

Current law does not expressly authorize the secretary of the department to delegate to other department employees the authority to certify and maintain custody of the department's records and files. Accordingly, there is a concern that the secretary might have to personally certify department records before they could be admitted in court.

Current law does not authorize the department to charge any fees for its costs involved in certifying and transmitting records.

Summary: The secretary of the department is authorized to delegate to department employees the authority to certify and maintain custody of the department's records and files.

The department may charge reasonable fees when it reproduces, ships and certifies its records.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 23, 1995

SHB 1906
PARTIAL VETO
C 302 L 95

Changing child care licensing definitions.

By House Committee on Children & Family Services (originally sponsored by Representatives Lambert and Cooke).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: The Department of Social and Health Services licenses agencies caring for children, expectant mothers, and people with developmental disabilities. One of the purposes of licensing these agencies is to safeguard the well-being of children and others cared for in these agencies. For each agency and staff seeking licensure, the department checks the conviction record or pending charges and dependency record information through the Washington State Patrol. Agencies may be denied licenses or have licenses revoked, suspended, or modified if the agency refuses to comply with licensing standards. Agencies who appeal a licensing action by the department are entitled to an administrative hearing before an administrative law judge employed by the Office of Administrative Appeals. The department does not provide an agency with a probationary license if the agency is temporarily unable to comply with department rules. Current child care licensing statutes exempt relatives from complying with licensing requirements. People who care for a neighbor's or friend's children on a regular basis are required to be licensed to provide child care.

Summary: Safeguarding the health, safety and well-being of children, expectant mothers, and developmentally disabled persons is declared to be paramount over the right of any person to provide care. The Office of Administrative Hearings may not assign an administrative law judge to a hearing regarding a child care agency license unless the judge receives training related to state and federal laws and policies and procedures of the Department of Social and Health Services on child care issues.

A departmental decision regarding a foster family home license is upheld if there is reasonable cause to believe that the licensee is unsuitable, fails to comply with license requirements, or the conditions for issuing the license no longer exist. A departmental decision regarding any other child care agency license is upheld if it is supported by a preponderance of the evidence.

In addition to other penalties, the department can assess fines against child care agencies, except licensed foster homes, for failing to comply with license standards or for operating without a license. The maximum fine ranges from \$75 for a family day-care home to \$250 for group homes and child day-care centers. Each day of violation may result in a separate penalty.

For disciplinary purposes, the department may issue a six-month probationary license to a licensee temporarily not in compliance with licensing standards. The probationary license may be extended for an additional six months. A probationary license is only issued if there is no immediate threat to the children and the licensee has a plan to correct the noncompliance. The department must terminate a probationary license at any time the noncompliance creates an immediate threat to the children. The licensee does not have a right to an adjudicative proceeding on the probationary license unless the licensee refuses probationary status and the department suspends, revokes, or modifies the license.

In addition to current background checks, applicants and their employees who reside in Washington for less than three years must be fingerprinted. The fingerprints are used to check for criminal history. The costs must be paid for by the licensee, who may not pass the cost on to the employee unless the employee is determined to be unsuitable due to his or her criminal record. When foster family home licensees plead hardship, the department must pay the expense.

A foster home no longer under the supervision of the agency with which it is licensed ceases to have a valid license. Child care agency licenses are not transferable and apply only to the location stated in the application. For foster-family homes where the family remains intact and family day-care homes with acceptable records for care, the license remains in effect for two weeks after a move.

The term "day-care center" is changed to "child day-care center." The definition of "family day-care provider" is clarified. The definition of "agency" will not include a person who provides child care for a friend or neighbor and does not engage in business-related activities associated with child care. A "provisional" license is changed to an "initial" license.

Votes on Final Passage:

House	64	32	
Senate	47	1	(Senate amended)
House	72	23	(House concurred)

Effective: July 23, 1995

Partial Veto Summary: The Governor vetoed a section of the bill that provided guidelines for the issuance of initial foster-family home licenses. (The Legislature enacted more specific guidelines for the issuance of initial foster-family home licensures in ESSB 5885.)

VETO MESSAGE ON HB 1906-S

May 9, 1995

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 9, Substitute House Bill No. 1906 entitled:

"AN ACT Relating to child care licensing;"

Substitute House Bill No. 1906 clarifies that the health and safety of children is paramount over the right of any person to be licensed to provide care. Section 9 provides guidelines for the issuance of initial foster-family home licenses. Section 22 of Engrossed Substitute Senate Bill No. 5885 offers the same guidelines, but explicitly spells out the conditions required for issuing an initial license. Vetoing section 9 of Substitute House Bill No. 1906 gives full effect to this bill while including the greater specificity offered by section 22 of Engrossed Substitute Senate Bill No. 5885.

For this reason, I have vetoed section 9 of Substitute House Bill No. 1906.

With the exception of section 9, Substitute House Bill No. 1906 is approved.

Respectfully submitted,



*Mike Lowry
Governor*

E2SHB 1908
PARTIAL VETO
C 18 L 95 E1

Modifying long-term care provisions.

By House Committee on Appropriations (originally sponsored by Representatives Dyer, Cooke, Ballasiotes, Stevens, Elliot, Talcott, Cairnes, Lambert, Pelesky, Hymes, Robertson, Mielke, Carrell, Backlund and L. Thomas).

House Committee on Health Care
House Committee on Appropriations

Background: The Aging and Adult Services Administration is the agency within the state Department of Social and Health Services (DSHS) that has management responsibility for publicly funded long-term care services such as nursing homes, chore services, Medicaid personal care, adult family homes, Community Options Program Entry System (COPES), and boarding homes. In Washington state, approximately 17,000 clients receive care in a nursing home, while 6,000 persons with disabilities live in licensed adult family homes, and approximately 18,000 are receiving some form of long-term care in their own homes.

Expenditures in state-administered, long-term care programs have increased even more rapidly over the past 10 years than the number of persons needing care. In addition, every year the state purchases a higher portion of long-term care services. After controlling for inflation, Aging and Adult Services expenditures have doubled over the past decade and have grown twice as fast as the total state budget. Three-quarters of the growth in long-term care expenditures is due to higher costs per person served. State costs per resident have grown 63 percent in community care while the cost of care in nursing homes has grown 88 percent.

In 1994, the Legislature directed the DSHS to develop a plan for reviewing and reducing Aging and Adult Services expenditures to comply with the 10.3 percent growth rate permitted under Initiative 601. Without changes, the projected growth rate is approximately 28 percent.

Several factors contribute to this increase:

- As the nursing facility rate increases, more people are eligible for Medicaid.
- The federal government has protected Medicaid spouses from impoverishment.
- Creative estate planning use is increasing by seniors.
- There have been demographic increases in persons with disabilities.
- Nursing home payment rates have been increasing an average of 9 percent per year.

To address this rapid growth, it has been recommended that:

- Lower cost long-term care options be expanded.
- The manner in which services are utilized and accessed be reviewed.
- Regulatory reforms be developed.
- The extent to which people can pay for their own care be identified.
- The rate of increase in nursing home payment rates be reduced.

Summary:

LONG-TERM CARE PROVISIONS

NURSING HOME CENSUS REDUCTION - By June 30, 1997, the Department of Social and Health Services (DSHS) must undertake a reduction of the nursing home Medicaid census by at least 1,600 by assisting individuals to obtain other types of care of their choice, such as assisted living, enhanced adult residential care, and other home and community services. To the extent of available funding, the department will provide case management services and assessment of home and community services that could meet resident's needs to those nursing facility residents who are eligible for Medicaid or likely to be eligible in 180 days. A nursing facility may not admit any Medicaid eligible individual unless the individual has been assessed by the department, but appropriate hospital discharge may not be delayed pending the assessment. The department is allowed to authorize supplemental rates for nursing homes that temporarily or permanently convert their beds for use as enhanced adult residential care services. The supplemental rate can be given to a nursing home for up to four years if the nursing home permanently de-licenses nursing beds and converts the beds to assisted living units.

HOSPITAL DISCHARGE PLANNING FOR LONG-TERM CARE - The DSHS is required to develop, distribute, and make available long-term care resource materials and information to hospitals and other appropriate settings to be used for patients needing discharge services. Hospitals are required to provide up-to-date and appropri-

ate information about long-term care options to the patients or their legal representatives or family. Hospitals are also required to work with the department and Area Agencies on Aging to conduct discharge planning to ensure that each patient is given a full array of appropriate choices for long-term care. The department is authorized to provide an assessment of hospital patients and nursing home residents who need long-term care and may become eligible for Medicaid within 180 days of admission to a nursing home. The department is directed to establish a pilot project in three areas of the state to assist hospitals, patients, and their families in making appropriate and informed choices on long-term care service options. A report to the Legislature is required on the pilot project by December 12, 1995.

COMPREHENSIVE LONG-TERM CARE SYSTEM REFORM - The Legislature finds that the intent of the 1989 long-term care reforms remain applicable and the need to streamline bureaucratic fragmentation and to facilitate the development of an integrated long-term care system based on functional disability remains pressing.

The Legislative Budget Committee, in consultation with the Washington Health Care Policy Board, is directed to develop a plan by December 12, 1995, that will:

- Reduce and reorganize the long-term care bureaucracy by consolidating the administration of all categorical chronic long-term care services;
- Implement a streamlined client-centered long-term care delivery system based on functional disability;
- Facilitate greater participation in long-term care administration by local communities, appropriately relying on families and community volunteers;
- Seek alternative funding sources and the use of long-term care insurance;
- Implement a case mix reimbursement system for nursing homes;
- Separate federal Older Americans Act funds and ask that the administration of the funds be separated from Aging and Adult Services; and
- Review Senior Services Act funds to identify whether the funds are being used for the most disabled elderly.

NEW DEFINITIONS - New definitions are added. "Cost effective care" means care which is necessary to enable an individual to achieve his or her "most appropriate level of physical, mental and psychosocial well-being, in an environment which is appropriate to the care and safety needs of the individual, and such care cannot be provided at a lower cost in any other setting. But this in no way precludes an individual from choosing a different residential setting to achieve his or her desired quality of life."

"Enhanced adult residential care" is defined as personal care services and limited nursing services provided by a boarding home that has a contract with the Department of Social and Health Services. "Enhanced adult residential care" is added to home and community services under

boarding home licensure and does not require architectural modifications.

QUALITY IMPROVEMENTS - The DSHS is required to implement a quality improvement system for long-term care services guided by principles of consumer-centered outcomes, supporting providers, training, case management, technical assistance, and problem prevention.

A toll-free number must be established to receive and investigate complaints for all facilities that are licensed by, or have a contract with, Aging and Adult Services. Providers must post the toll-free number.

ENHANCED RESIDENTIAL CARE AND ASSISTED LIVING SERVICES - The DSHS may contract with boarding homes, including those licensed by Indian tribes, for the provision of enhanced adult residential care and assisted living services. The department is also required to develop certain standards by rule for those providers who opt to provide such services. The authority of the department only extends to the services and facilities provided to enhanced adult residential care or assisted living services clients of providers who contract with the department for enhanced adult residential care or assisted living services. Minimum training and qualification requirements are established for these providers. The department is prohibited from contracting for any such services if the provider has a history of significant compliance difficulties. The department is authorized to impose penalties on assisted living, enhanced adult residential care, and adult residential care providers for violation of standards. The Department of Health is also authorized to impose penalties on boarding homes for violations of standards. The DSHS is authorized to pay higher rates for enhanced adult residential care to nursing homes which temporarily or permanently convert nursing home beds to this type of care. The DSHS is also authorized to pay higher assisted living rates for up to four years to nursing homes which permanently de-license nursing home beds and convert the beds to assisted living units.

ADULT FAMILY HOME REGULATIONS - Adult family homes are directed to provide appropriate care through a plan of care that promotes the residents' ability to function at the most appropriate level of care consistent with their needs. Clients are given the right to participate in the development of their plan of care. The DSHS is authorized to impose civil penalties on persons operating an adult family home without a license. Adult family homes petitioning the department for a license renewal must apply at least 60 days prior to the current license expiration date for the license. The department is allowed to make unannounced inspections of adult family homes at any time, not just on the basis of complaints. Adult family homes are to make certain documents available to the department, the public, and residents. The department is also required to develop corrective measures for violations found in adult family homes and is allowed to provide technical assistance and an opportunity to report on a

corrective plan. Adult family homes must meet single family residence requirements as they pertain to local licensing, zoning, building and housing codes. All adult family homes are prohibited from interfering with the ombudsman and are subject to fines if they are found in violation. Additional sanctions are imposed for violations of standards. The department is required to maintain a toll-free number for complaints by adult family home residents.

CHORE SERVICES - The DSHS is directed to not authorize chore services when the needs of the individual can be met by another community service. The department is also directed to establish a monthly lid on chore expenditures. Priority for services is to be given to persons who were receiving chore services as of June 30, 1995, people for whom chore services are necessary to return to the community from a nursing home or are necessary to prevent nursing home placement, or persons who are referred from adult protective service investigations. Chore services clients are required to participate in their cost of care. The client will retain an amount equal to 100 percent of the federal poverty level for maintenance needs when calculating chore client participation amounts.

HOSPITAL DISCHARGE STAFFING / CONTRACTING WITH AAA'S FOR SERVICE REAUTHORIZATION - Legislative intent is stated that staff reassigned by the department as a result of contracting reauthorization responsibilities will be dedicated for long-term care discharge planning. The DSHS is authorized to contract with Area Agencies on Aging (AAA's) to provide case management services for persons receiving care in their home and to reassess and reauthorize clients for services.

CHORE SERVICES TECHNICAL CHANGES - Technical changes are made that allow the DSHS to develop the chore program consistent with changes mandated under the bill. The requirement that the department establish a sliding fee schedule is eliminated. The department is authorized to establish a methodology for client participation.

NURSING HOME INSPECTIONS - The department is required to make inspections of nursing homes at least every 18 months and to set a minimum length of time between inspections for citation-free facilities of 12 months to allow for flexibility for certification and licensure requirements.

NURSING HOME RECORD RETENTION - Nursing homes are required to maintain patient clinical records for eight years rather than 10 years to be consistent with civil tort actions.

NURSE DELEGATION - A nurse is authorized to delegate specific nursing care tasks to registered or certified nursing assistants serving patients in three settings: community residential programs serving the developmentally disabled; adult family homes; and boarding homes providing assisted-living services.

The nursing assistant qualifying for delegated nursing tasks must first complete a basic core training program provided by the DSHS, and meet any additional training requirements identified by the Nursing Care Quality Assurance Commission.

The nursing tasks that may be delegated are limited to oral and topical medications; nose, ear, eye drops, and ointments; dressing changes and catheterization; suppositories, enemas, ostomy care; blood glucose monitoring; and gastrostomy feedings.

The commission is required to develop by rule nurse delegation protocols which specify the requirements for the delegating process and identify any additional training. These requirements provide that the delegating is at the discretion of the nurse; is only for a specific patient in a stable and predictable condition and is not transferable; requires the informed consent of the patient as well as the consent of the nurse and nursing assistant; provides assessment of competence, a plan of supervision, documentation and written instructions on the tasks; and requires a determination of any additional training or other requirements specified by the act.

The development of a basic core training curriculum by the DSHS, in conjunction with advisory panels, is required for nursing assistants providing delegated tasks. The department is also required to develop and clarify reimbursement policies and barriers to current delegation.

Nurses and nursing assistants are accountable for their own individual actions in the delegation process. They are immune from liability when acting within the guidelines of the delegation protocol. They may not be coerced into delegating, and are not subject to any employer reprisal or discipline for refusing, nor may the facility discriminate or retaliate against any person who files a complaint. A toll-free phone line must be established to receive complaints related to nurse delegation which are to be forwarded to the commission. Civil fines up to \$1,000 are imposed on facilities that knowingly permit unlawful delegation of nursing tasks.

The Secretary of Health, in consultation with the commission, the University of Washington's Schools of Public Health and Nursing, and the Department of Social and Health Services, must monitor the implementation of these provisions and report to the Legislature by December 31, 1996, and again by December 31, 1997, on the effectiveness of nurse delegation and associated problems, with recommendations for improvement. A legislative task force is established to monitor the implementation of these provisions and to study the effectiveness of nurse delegation protocols and training with a report to the Legislature by February 1, 1997.

ESTATE RECOVERY, NOTIFICATIONS, AND ASSET TRANSFERS - Penalties are established against individuals who knowingly receive assets at less than fair market when done for the purpose of establishing Medicaid eligibility. Assets of individuals who receive any

home and community services, and specifically chore service, are subject to estate recovery. The DSHS is allowed to pay for attorneys, guardians, and other agencies when necessary to protect assets and collect bad debts. Notice of various legal notices, filed regarding a deceased person's estate, are required to be sent to the department. Claims by the department for the cost of long-term care services must be included in the priority list of debts which must be paid by the estate. The department is included in the priority list of administrators who may be named for an estate if an individual dies without a will. The department is required to notify the trustee of any prearrangement funeral service trust and the cemetery authority that it has a claim on the estate of a beneficiary who received long-term care services. The trustee and cemetery authority must then give notice of the beneficiary's death to the department's Office of Financial Recovery, who must then file this claim within 30 days. Prearranged funeral service contracts are required to contain language that informs the individual that any unused funds from the policy may be subject to claims by the state for long-term care services that the state had funded. The recovery procedure is outlined.

NURSING HOME DISCHARGE - The department is required to follow a notification and appeals process if a Medicaid resident is discharged and chooses to remain in a nursing facility.

FINANCIAL RECOVERY UPON DEATH - Any funds held by the nursing home facility on behalf of a resident who received long-term care paid for by the state must be sent to department's Office of Financial Recovery within 45 days of the recipient's death. The department is required to establish release for use for burial expenses. The department is allowed to recover against estates as soon as practicable, but recovery will not include property exempt from estate claims under federal law or treaty, including tribal artifacts. Church or religiously operated nursing facilities, which provide care exclusively to members of its convent, rectory monastery or other clergy members, are exempt from the operating standards for covered facilities.

NURSING HOME COMPONENT RATES - The DSHS is authorized to base initial nursing services, food, administrative, and operational rate components rates for the purpose of reimbursement on a formula using the median for facilities in the same county. This is applicable to any facilities receiving original Certificate of Need approval prior to June 30, 1988, and commencing operations on or after January 2, 1995.

VOLUNTARY NURSING HOME BED CONVERSION - A nursing home may "bank" or hold in reserve its nursing home beds for any purpose that enhances the quality of life for residents, in addition to those specified by law, without the requirement of a Certificate of Need.

A health facility or health maintenance organization that provides services similar to the services of an applicant for a Certificate of Need in the same service area, and who

has testified as an interested party and submitted evidence at a public hearing on the application, may also present testimony and argument at any adjudicative proceeding of the application on appeal. The interested party must first have requested in writing to be informed of the DSHS's decision. The interested party must also be afforded an opportunity to comment in advance of any proposed settlement.

When a building owner has secured an interest in nursing home beds, a licensee, if different from the building owner, must obtain and submit to the department written approval from the building owner to reduce the number of beds in the facility. A building owner may complete a replacement project if a licensee is unable to complete the project.

A licensee may replace existing beds without a Certificate of Need if the licensee has operated the beds for at least one year. If a nursing home closes, the re-use of existing beds will require a Certificate of Need, but the determination of need will be deemed met if the applicant is the licensee.

NURSING HOME CERTIFICATE OF NEED IN ECONOMICALLY DISTRESSED AREA - Any nursing home is allowed an additional extension of up to 60 months to apply for Certificate of Need if the nursing home is located in an economically distressed area.

LONG-TERM CARE COMPUTER INFORMATION PILOT PROJECT - The DSHS is required to establish an on-line computer information system for long-term care on a pilot basis and to make a report to the Legislature by December 1, 1996.

LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM - The Office of the Insurance Commissioner (OIC) is required to work in conjunction with DSHS to coordinate the Long-term Care Partnership Program. The 1998 ending date for the program is eliminated and the program is extended indefinitely. Technical changes are made that allow the partnership program to be implemented according to new federal guidelines and clarify the ability of policy holders to exclude all or some of their assets in determining Medicaid eligibility as specified by the DSHS and the OIC.

Modifications are made to the rules that the OIC is required to adopt regarding the partnership policies. Under these rules, policies must now contain coverage for nursing home care, and an alternative plan for home care as defined by the insurance commissioner that, if not wanted, must be rejected in writing by the potential policy holder. Home and community-based long-term care services are made optional. In addition, automatic inflation protection is made mandatory for policy holders under the age of 80 and optional for policy holders over the age of 80. Insurers offering partnership policies are required to provide information to the OIC for annual reporting, based on a uniform data set defined by the commissioner. The development of consumer education for the partnership program must also

include the cooperation of members of the long-term care insurance industry. The program's reporting requirement is extended until 1998.

LEGAL PROTECTION FOR FRAIL VULNERABLE ADULTS - Legislative intent to provide frail elders and vulnerable persons with the protection of the courts is stated. Frail elders and vulnerable persons, age 60 or older, who are abused, neglected, exploited or abandoned (as defined), while residing in certain licensed care facilities or receiving other licensed care, may sue for damages, including injuries, pain and suffering and loss of property. If they prevail in the legal action, they are awarded actual damages, costs of the suit (including fees for guardians ad litem and expert witnesses), and reasonable attorney's fees. The right of action can survive the plaintiff, for the benefit of the surviving spouse, children, or heirs.

Under the definition of "exploitation," reference to trust income is included as one of the vulnerable person's income items that should also be considered protected.

Persons receiving a well-recognized spiritual method of healing are exempted and may not for that reason alone be considered abandoned, abused, or neglected under this law.

Parties to a dispute regarding the care or treatment of a frail elder or vulnerable person are encouraged whenever feasible to use the least formal means available to resolve the dispute, such as through direct discussion with the health care provider, use of the long-term care ombudsman, and if necessary, recourse through regulatory agencies.

NURSING HOME PAYMENT CHANGES

DEFINITIONS - A definition of "client day" and "recipient day" is established. The terms "rebased rate" and "cost-rebased rate" are defined as rates based on prior calendar year costs.

AUDITS - The requirement to audit at least once every three years is eliminated. Audits will be performed periodically as determined necessary by the DSHS. The state auditor's audit of the department's nursing home auditing is changed from annually to at least once every three years.

SETTLEMENT OF MEDICAID OVERPAYMENTS - Provisions related to the settlement of Medicaid overpayments are modified. A new process for handling audits is included that establishes a right to appeal audits, rates, and settlements. The DSHS and nursing homes are required to pay debts owed within 60 days of settlement.

NONMEDICAID THERAPY COSTS - The legislative authority to treat, for nursing home reimbursement purposes, nonmedicaid therapy costs as unallowable is clarified. In addition, language is added that specifies that any prior year costs which will no longer be realized by a nursing home due to statutory changes will no longer be considered when setting prospective rates.

NEW CASE MIX NURSING HOME REIMBURSEMENT SYSTEM - The Legislature declares its intent to create a new system for establishing nursing home payment rates no later than July 1, 1998. Any payments to

nursing homes after June 30, 1998, will be based on the new system, which shall include a case-mix methodology for paying for nursing services. The DSHS is directed to develop a new system that matches nursing facility payments to patient care needs while providing incentives for cost control and efficiency. The department must provide annual reports to the Legislature as well as a plan for adopting the new system no later than July 1, 1998. The current nursing facility rate setting statutes are repealed effective June 30, 1998.

REIMBURSEMENT RATE CHANGES - Nursing home payments for nursing services, food, administrative, and operational rate components are modified to specify that in fiscal year 1997, rates will be determined using fiscal year 1996 rates inflated by the Health Care Financing Administration (HCFA) nursing home inflation index, instead of inflated by the HCFA nursing home index times 1.5. Beginning in fiscal year 1997, current funding will be inflated. In fiscal year 1998, rates will be determined using fiscal year 1997 rates inflated by the HCFA index times 1.25, instead of rebasing rates using calendar year 1996 costs and inflated by the implicit price deflator (IPD). (Component rates for property and return-on-investment will be reset annually, as under current law.)

NURSING HOME MINIMUM OCCUPANCY - The minimum occupancy provisions of the rate setting process are changed so that rates will be set using a minimum occupancy of 90 percent instead of 85 percent. This minimum will be applied to all rate components. Provisions are included that specify the use of an 85 percent minimum occupancy for nursing homes that are new facilities or have had substantial capital improvements during the previous year.

CURRENT FUNDING RATE ADJUSTMENTS - The provision authorizing the DSHS to make interim payment rate adjustments (current funding) specifies that the department is to stay within the funding level authorized by the Legislature. The department is authorized to make rules in order to ensure that spending limitations are not exceeded.

HCFA NURSING HOME INFLATION INDEX - Current nursing home payments for the nursing services rate component are modified to specify that in fiscal year 1997, rates will be determined using fiscal year 1996 rates inflated by the HCFA nursing home inflation index, instead of inflated by the HCFA nursing home index times 1.5. It is specified that in fiscal year 1998, rates will be determined using fiscal year 1997 rates inflated by the HCFA index times 1.25, instead of rebasing rates using calendar year 1996 costs and inflated by the IPD.

REIMBURSEMENT RATE COMPONENT MODIFICATIONS - Nursing home payments for the food rate component are modified to specify that in fiscal year 1997, rates will be determined using fiscal year 1996 rates inflated by the (HCFA) nursing home inflation index, instead of by the HCFA nursing home index times 1.5. It is specified that in fiscal year 1998, rates will be deter-

ESHB 1913

mined using fiscal year 1997 rates inflated by the HCFA index times 1.25, instead of rebasing rates using calendar year 1996 costs and inflated by the (IPD). Nursing home payments for the administrative rate component are modified to specify that in fiscal year 1997, rates will be determined using fiscal year 1996 rates inflated by the HCFA nursing home inflation index, instead of inflated by the HCFA nursing home index times 1.5.

MULTIPLE YEAR CYCLES - Reference to multiple year cycles in the property rate component and applying the minimum occupancy level and to multiple year cycles in the return-on-investment rate component and applying the minimum occupancy level are eliminated.

MEDICAID OVERPAYMENTS - Provisions related to settlement of Medicaid overpayments are removed. The DSHS and nursing homes are required to pay debts owed within 60 days of settlement. The department is authorized to obtain security on debts in excess of \$50,000 and to establish an appeals process for audits, rates, and settlements.

Votes on Final Passage:

First Special Session

House	90	0
Senate	45	0

Effective: July 1, 1995

Partial Veto Summary: The partial veto removes provisions requiring the Legislative Budget Committee to develop a working plan to reform and streamline the long-term care delivery system. The extension of 60 months to apply for a nursing home Certificate of Need and the extension, from 12 to 18 months, for nursing home inspections are also eliminated.

VETO MESSAGE ON 2SHB 1908

June 15, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 11, 42, and 73, Engrossed Second Substitute House Bill No. 1908 entitled:

"AN ACT Relating to long-term care;"

Engrossed Second Substitute House Bill No. 1908 is far-reaching legislation representing the efforts of many to reform Washington's Long Term Care service delivery system. The legislature's efforts to expand options for individuals who could be served in community settings, improve the quality of care for those being served in community programs, and revise the nursing facility payment system are to be applauded.

Section 11 directs the Legislative Budget Committee (LBC) to develop a working plan for long term care reform by December 12, 1995. The LBC is to design an integrated, single point of entry system for the delivery of services to all users of long term care. This plan is directed to implement many of the findings included in the report completed by the Long Term Care Commission in 1991. In the intervening years the legislature has not chosen to adopt the recommendations of the Long Term Care Commission regarding integration of services. One of the primary reasons this proposal was not adopted was that it would have significant cost. Because of the wide array of long-term

care issues which were addressed in this legislation, this section did not receive full public scrutiny in the 1995 legislative session. I would like to see more debate on the topic before such a major undertaking goes forward.

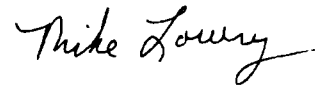
Section 42 extends the requirements for the Department of Social and Health Services (DSHS) to inspect nursing homes from every 12 months to at least every 18 months. Additionally, DSHS is prevented from conducting nursing facility inspections for 12 months after a citation-free inspection. This prohibition violates federal requirements that the state inspect facilities any time there is reason to believe a facility may be providing substandard care. While I am vetoing this section, I am directing DSHS to use its resources efficiently and to not inspect citation-free facilities more frequently than every 12 months unless it has cause to believe problems have developed in the interim.

Section 73 provides nursing homes an additional extension of up to 60 months to apply for a Certificate of Need if the facility is located in an economically distressed area. Because the Certificate of Need considers financial feasibility, an extension would not necessarily make financing easier to obtain in an economically distressed area. Additionally, facilities in operation could utilize the Certificate of Need to minimize competition.

For these reasons, I have vetoed sections 11, 42, and 73 of Engrossed Second Substitute House Bill No. 1908.

With the exception of sections 11, 42, and 73, Engrossed Second Substitute House Bill No. 1908 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 1913

C 5 L 95 E2

Providing sales and use tax exemptions for film and video production companies.

By House Committee on Finance (originally sponsored by Representatives Van Luven, Sheldon and Smith).

House Committee on Finance

Background: The state retail sales tax is imposed on retail sales of most items of tangible personal property and some services. The retail sales tax is also imposed on the rental of tangible personal property. The sales tax is paid by the purchaser and collected by the seller. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location.

The use tax is imposed on the use of articles of tangible personal property when the sale 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 in respect to property acquired from out of state.

The use tax also applies to the use of tangible personal property in this state by nonresident businesses in cases where the sales tax has not already been paid. If property is used in this state by a nonresident business for less than

180 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. The use tax does not apply to services.

Summary: Production equipment rented to motion picture or video production businesses is exempt from sales and use taxes. Production equipment includes cameras, vans and trucks specifically equipped for motion picture or video production, wardrobe and makeup trailers, special effects and stunt equipment, telepromoters, sound recording equipment, and similar equipment. Production services provided to motion picture or video production businesses are exempt from sales tax, including processing, printing, editing, duplicating, and similar services.

These exemptions are not available to businesses that are engaged in the production of erotic material.

Votes on Final Passage:

House 96 2

First Special Session

House 88 9

Second Special Session

House 87 6

Senate 41 5

Effective: July 1, 1995

SHB 1917
PARTIAL VETO
C 113 L 95

Requiring that department of natural resources contract with private entities for emergency response equipment, supplies, and services.

By House Committee on Natural Resources (originally sponsored by Representatives Pennington, Fuhrman, Thompson, Goldsmith, McMorris and Kremen).

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: The Department of Natural Resources provides support services to its firefighters in the field. The department owns five large mobile kitchen units, one small kitchen unit, and two mobile shower trailers for use in forest fire suppression efforts. The department also contracts for use of equipment such as kitchens and showers, laundry services, chemical toilets, and refrigeration trailers.

The Forest Fire Advisory Board represents private and public forest landowners and other interested segments of the public. The board advises the department on a number of topics relating to the department's policies and expenditures on forest fire prevention and suppression.

Summary: The Legislature finds that it is frequently in the best interest of the state to utilize fire suppression

equipment from private vendors. By June 1 of each year, the Department of Natural Resources shall establish a list of fire suppression equipment such as portable showers, kitchens, and water tanks provided by the department so that the cost by unit or category can be compared to the expense of utilizing private vendors to provide this equipment. Before constructing or purchasing any equipment on this list, the department shall compare that cost with the cost of utilizing private equipment. If utilizing private equipment is more effective and efficient, the department may not construct or purchase the equipment but shall utilize equipment from the lowest responsive bidder.

An additional member is added to the Forest Fire Advisory Board to represent private contractors of fire suppression equipment, supplies, and services.

Votes on Final Passage:

House 95 1

Senate 37 0

Effective: July 23, 1995

Partial Veto Summary: The veto removes the provision that added a member to the Forest Fire Advisory Board to represent private contractors of fire suppression equipment.

VETO MESSAGE ON HB 1917-S

April 19, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 4, Substitute House Bill No. 1917 entitled:

"AN ACT Relating to emergency response services;"

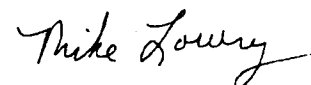
Substitute House Bill No. 1917 requires the Department of Natural Resources to contract privately for the provision of certain fire suppression equipment when such utilization is efficient and effective. This is an appropriate policy direction and, I am advised by the Commissioner of Public Lands, is in keeping with current departmental practice.

Section 4 adds a representative of private contractors of fire suppression equipment, supplies, and service to the Forest Fire Advisory Board. This board has the primary responsibility to review expenditures from, and recommend increases to, the Landowner Contingency Fund. This fund is established through a fee on landowners. Representation by this interest group is inconsistent with the duties of the Forest Fire Advisory Board and is an inappropriate forum for advice from equipment contractors. Moreover, adding this representative would unnecessarily increase board costs.

For these reasons, I have vetoed section 4 of Substitute House Bill No. 1917.

With the exception of section 4, Substitute House Bill No. 1917 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 1922

ESHB 1922

C 361 L 95

Regulating excursion vessels.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt and R. Fisher).

House Committee on Transportation
Senate Committee on Transportation

Background: Commercial ferries (private ferries) are subject to the economic regulation of the Utilities & Transportation Commission (UTC). A commercial ferry is a for-hire vessel operated for public use between fixed termini over regular routes. Entry and rate regulation, as well as insurance requirements, are imposed. The entry standard is "public convenience and necessity" (PC&N).

One of three entry standards must be met when applying for approval as a for-hire vessel or carrier. PC&N is the most stringent entry standard. The applicant must prove that he/she is financially able to provide the service, that there is a need for the expanded service, that the existing carrier is not adequately serving the route, and that the new proposed service will not adversely affect the existing carrier. Under "public interest," the moderate entry standard, the applicant must prove that he/she is financially able to provide the service and demonstrate that the service will be used by specific customers. Under "fit, willing and able," the most relaxed standard, the applicant simply proves financial ability to provide the service.

Although commercial ferries are subject to economic regulation, the statute is silent on the operation of excursion ferries.

Summary: Ferry excursion services are regulated by the Utilities & Transportation Commission (UTC) with regard to entry, rates, routes and insurance. The entry standard is "public convenience and necessity."

An excursion service is a for-hire vessel that transports passengers over Washington waters from a point of origin with an intermediate stop(s) at which passengers may leave and reboard the vessel before it returns to that same point of origin.

The following services operating for compensation in Washington waters are exempt from the UTC's economic regulation: 1) charter services (vessels with captain and crew that are hired to transport passengers or property); 2) vessels operated by nonprofit or governmental entities that are replicas (tall ships in Grays Harbor) or historic vessels (Virginia V); 3) vessels that depart and return to the point of origin without stopping at another location where passengers may leave the vessel; 4) vessels up to 65 feet, 49 passengers that operate in San Juan County six months per year; 5) excursions that do not depart from a point of origin on a regularly published schedule; 6) excursions that do not operate between the same point of origin and an intermediate stop more than four times per month or 15 times per year; 7) vessels that do not return to the port of

origin the same day; and 8) vessels operating on the Pend Oreille River.

The regulation of excursion services by the UTC expires January 1, 2001.

Votes on Final Passage:

House	93	0	
Senate	39	6	(Senate amended)
House	95	0	(House concurred)

Effective: July 23, 1995

SHB 1929

C 154 L 95

Concerning the employment of inmates.

By House Committee on Corrections (originally sponsored by Representatives Brumsickle and Morris).

House Committee on Corrections
Senate Committee on Human Services & Corrections

Background: In 1993, the Legislature authorized the establishment of a jail industries board. The jail industries board is required to provide uniform assistance to local jails statewide in the development and implementation of safe and productive jail work programs. In addition to providing advice and guidelines, the board is also mandated to ensure that local businesses and labor are not negatively impacted by jail industries. The legislation established two models of jail industry programs: the free venture employer model, and the free venture customer model. Inmates working in free venture work programs are eligible for industrial insurance benefits.

Summary: A new classification of jail industry programs is established. The new classification, tax reduction industries, is defined as those industries owned and operated by local jurisdictions to provide work training and employment in order to reduce public support costs. The goods and services of these industries are allowed to be sold to public agencies, nonprofit organizations, and private organizations when the goods purchased will ultimately be used by a public agency or nonprofit organization. Surplus goods may be donated to government and nonprofit organizations.

Responsibility for providing industrial insurance under each of the three jail inmate employment models is clarified. In the free venture employer model industries, the private sector business or industry, or nonprofit organization is responsible. In free venture customer model industries, any organization that is party to the agreement is responsible, pursuant to that agreement. In tax reduction industries, local jurisdictions, including self-insured jurisdictions, may elect to provide industrial insurance through the state fund, or the self-insured jurisdictions may elect to provide only medical benefits through the state fund.

City or county responsibilities for industrial insurance are defined in the event of a failure of the private sector or nonprofit entity engaged in free venture industries agreement. Free venture industries agreements must be filed under a separate and individual master business application and a separate account with the Department of Labor and Industries.

The role and responsibility of the advisory board is also clarified. The board is required to provide training assistance to local jurisdictions upon request from that jurisdiction. Members serving on the board, and their employer(s) are protected from civil action based upon an act performed in good faith.

Other technical and housekeeping changes are made.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: July 23, 1995

E2SHB 1941

C 303 L 95

Improving student learning by focusing on reading literacy.

By House Committee on Appropriations (originally sponsored by Representatives Johnson, Brumsickle, Talcott and Thompson).

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

Background: Educators, business representatives, parents, and others have concluded that the ability to read with comprehension and skill is essential for success in school and for success in future life. Evidence suggests that it is important to provide reading assistance to students in the early grades if they are to be successful in school.

The Commission on Student Learning is to develop an assessment system to be used in the elementary, middle, and high school grades. The assessments for measuring academic achievement in reading, writing, math, and communication are to be implemented on a voluntary basis during the 1996-97 school year.

Summary: When developing the elementary grades assessment system, the Commission on Student Learning is to ensure that all students are assessed for reading literacy skills by March 31st of the third grade.

The third-grade reading assessment shall be made available for voluntary implementation in the 1996-97 school year. Elementary schools are encouraged to implement the assessment in the 1996-97 and 1997-98 school years. In the 1998-99 school year, the reading assessment is to be given to all public school third graders.

The information provided by the third-grade reading assessment is to be used to evaluate instructional practices

and to initiate appropriate educational support for students who have not mastered the essential academic reading requirements for reading. School districts must continue to provide appropriate reading support for students who have not mastered the essential learning requirements for reading. The results of the third-grade reading assessment are not to be used for school or school district accountability purposes.

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	44	0
House	91	0

Effective: July 23, 1995

ESHB 1957

FULL VETO

Reducing the state property tax levy.

By House Committee on Finance (originally sponsored by Representatives B. Thomas, Carrell, Mulliken, Campbell, Foreman, Van Luven, Benton, L. Thomas, Crouse, Backlund, Elliot, McMahan, Smith, Stevens and Schoesler).

House Committee on Finance

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

Summary: The state property tax for collection in 1996 is reduced by 5 percent. The reduced 1996 levy is used for future state levy calculations under the 106 percent levy limit. These changes reduce the state property tax by \$92 million in the 1995-97 biennium.

Votes on Final Passage:

House	82	13
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First Special Session

House	94	3
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Second Special Session

House	89	4
Senate	43	4

VETO MESSAGE ON HB 1957

June 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute House Bill No. 1957 entitled:

"AN ACT Relating to reducing the state property tax levy for 1996 and thereafter;"

Engrossed Substitute House Bill No. 1957 reduces the 1996 state property tax by five percent. The state school levy calculations in future years would be based on the reduced levy amount, making this a permanent property tax reduction.

The existing property taxation system puts an unfair tax burden on many citizens. Taxation of property has historically been a tax upon wealth, but increasingly, ownership of a home or other property is not necessarily an indication of ability to pay taxes. In some instances, as property values rise, and equity in a home increases, the ability of taxpayers to gain access to the funds needed to pay their property taxes means borrowing against or even selling their homes.

Although some type of property tax relief is clearly necessary, this bill would reduce the property taxes for the owner of a \$100,000 home by only \$18 annually. That amount simply does not represent substantial property tax relief and does not solve the real problems inherent in our current property tax system.

In addition, this bill would have a sizable impact on the general fund, decreasing revenues by \$92 million during the 1995-1997 biennium, and by \$136 million in 1997-99. Given the fact that this bill offers very little tangible property tax relief to homeowners while significantly reducing overall state revenues, I believe the state simply cannot afford such a reduction.

The June 15 announcement of a \$181 million reduction in the revenue forecast, due in part to announcements of further Boeing and Hanford layoffs and the slowing of the national economy, means the revenue assumptions made by the legislature in its budget are no longer valid, and the level of budget reserves proposed is no longer available.

It is vitally important for Washington to maintain a prudent budget reserve capable of allowing the state to operate through both good and bad economic times without resorting to tax increases or drastic program cuts. One of the primary features of Initiative 601 is the requirement to build reserves when the economy is strong, so they are available when the economy slows.

With the very real likelihood of significant federal costs being shifted to the states in an effort to balance the federal budget, the basic uncertainty over the future of the economy as expressed by the Governor's Council of Economic Advisors, and the ever-present possibility of unexpected costs, it is especially important today that Washington has a strong budget reserve.

In addition, in order to adequately and effectively address the issues related to property taxation, I am setting up a task force comprised of legislators, assessors, Department of Revenue staff, and representatives of business, homeowners and the general public, who will be charged with the responsibility of developing viable short and long-term solutions to the very real problem of property taxation in Washington State.

For these reasons, I am vetoing Engrossed Substitute House Bill No. 1957 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SHB 1995

C 304 L 95

Providing an exemption and an offset for insurance premium and prepayment obligations for the high risk pool.

By House Committee on Health Care (originally sponsored by Representatives Mielke, Morris and Dyer).

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

Background: The High Risk Health Insurance Pool was created in 1987 to assist persons unable to purchase insurance coverage because of serious illness. The pool statute limits premium charges. Any excess in cost beyond premiums collected is assessed against health carriers. Such assessments are tax deductions from the premium tax for disabilities insurers. Health maintenance organizations (HMO's) and health care service contractors who do not pay a premium tax, but who do pay a minimal business and occupation tax, are not eligible for the deduction.

The Washington Health Services Act of 1993 imposed a 2 percent premium tax on HMO's and health care service contractors beginning July 1, 1995, and terminated their business and occupation tax on January 1, 1996. The High Risk Pool tax deduction statute was not modified to reflect this change.

Summary: HMO's and health care service contractors are permitted to receive the High Risk Health Insurance Pool tax deductions.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: May 9, 1995

EHB 2005

FULL VETO

Modifying certified health plan provision of vision benefits.

By Representatives Dyer and Dellwo.

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

Background: The Washington Health Services Act of 1993 requires certified health plans (CHPs) to offer, at a minimum, the full uniform benefits package (UBP). CHPs are not permitted to offer vision care only.

Summary: Insuring entities are permitted to offer coverage for vision care as part of, or separate from, the UBP, consistent with certification rules set by the Insurance Commissioner. Such permission is not intended

to convey a market advantage for vision-only CHPs. The Washington Health Services Commission and the Insurance Commissioner must develop and enforce separate cost containment requirements, including separate community-rated premium submaximums and enrollee financial participation submaximums.

Vision-care only CHPs are required to comply with all applicable laws governing the financial supervision and solvency of such organizations, including laws concerning capital and surplus requirements, reserves, deposits, bonds, and indemnities.

Votes on Final Passage:

House	98	0	
Senate	40	1	(Senate amended)
House	96	0	(House concurred)

VETO MESSAGE ON HB 2005

May 16, 1995

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed House Bill No. 2005 entitled:

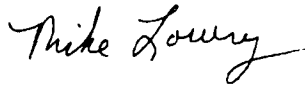
"AN ACT Relating to the modification of provisions governing certified health plans providing vision benefits only;"

The Washington Health Services Act of 1993 required newly created certified health plans to offer, at a minimum, the full uniform benefits package established under state law. Engrossed House Bill No. 2005 creates an exception to this requirement in order to permit certain certified health plans to offer vision care only.

The restructuring and modifications to the 1993 Health Services Act made in Engrossed Substitute House Bill No. 1046, which I have already signed into law, allow for services as envisioned under Engrossed House Bill No. 2005 and eliminates the need for the exception created by this legislation.

For this reason, I have vetoed Engrossed Substitute House Bill No. 2005 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

2E2SHB 2010

PARTIAL VETO

C 19 L 95 E1

Revising corrections provisions.

By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, Quall, Sherstad, Chandler, Schoesler, Radcliff and Blanton).

House Committee on Corrections

House Committee on Appropriations

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

Background: The Washington State Department of Corrections (DOC) is required to promote public safety by providing facilities and services that control and redirect the behavior of adult felony offenders committed to its jurisdiction by the courts. The system provides programs designed to avoid idleness and promote the work ethic and individual self improvement. The Department of Corrections consists of five divisions: the Division of Prisons, the Division of Offender Programs, the Division of Institutional Industries, the Division of Community Services, and the Division of Management and Budget. Three separate functions are carried out in sections attached to the secretary's office: Employee Services, Public Affairs, and Legislative Affairs.

Recreation: Every Department of Corrections institution provides a full range of recreational facilities, including gymnasiums, recreation yards, hobby shops, and day rooms for inside activities. Within those facilities, a variety of recreational activities occur that are designed to reduce inmate idleness. These include softball, volleyball, basketball, soccer, track activities, weight lifting, and physical fitness programs. Recreational leaders are responsible for organizing, monitoring, and supervising the recreational activities in the institutions.

Extended Family Visitation: All prison inmates are allowed to have visits from members of their families, including overnight visitation with their spouses, except for those under penalty of death, housed in segregation or intensive management, or who are in some way restricted. The department defines which family members can participate in the program and establishes the terms and conditions for access to and use of the extended family visitation units.

During 1993 and 1994, approximately 2,477 inmates used the extended family visitation units.

Cable and Closed-Circuit Television: All Department of Corrections facilities have or are planning to install satellite or cable systems. Generally, the department pays for the installation of the cable or satellite system and the inmates pay for maintenance and monthly programming fees. The cost for installing cable television access at Airway Heights Correctional Facility was approximately \$100,000. All facilities allow inmates to have television in

their cells and/or living units or both. Inmates pay for their own personal televisions. Some of the facilities are currently using, or are prepared to use, the cable systems for educational programming to defray costs of on-site educational classes.

Offender Education: The Department of Corrections currently contracts with nine community colleges to provide educational services for offenders at 15 correctional facilities. Instruction is offered in adult basic education, life skills training, and vocational education. Funding for offender education programs is provided primarily by state legislative appropriation and is administered by the department. Some federal funds are also used for specific education programs. In fiscal year 1995, the total operating budget for offender education is \$11, 789,688.05 in state dollars. Last year, the department awarded 578 general educational development certificates (GED), 41 high school diplomas, 325 adult basic education certificates, 700 locally approved vocational certificates, 229 state approved vocational certificates, 75 academic associated degrees, and 69 vocational associate degrees. Most inmates are assessed for level of reading during the first 30 days.

Correctional Industries: The Department of Corrections Division of Correctional Industries operates five classes of work programs which provide jobs, training, and work experience for inmates.

Under current law, the department 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. The following are the wages and deductions for inmates working in Correctional Industries.

Class I - Private sector businesses operated in DOC. \$4.50 to comparable wage.

DEDUCTIONS:

- 5% Crime victims compensation
- 10% Inmate savings account (non-lifers only)
- 20% Cost of incarceration

Class II - DOC industries (license plates, furniture, milk) \$.30 to \$.90 per hour.

DEDUCTIONS:

- 5% Crime victims compensation
- 10% Inmate savings account (non-lifers only)
- 15% Cost of incarceration

Class III - DOC maintenance of prison \$30 to \$50 per month.

DEDUCTION:

- 5% Crime victims compensation

Class IV - Services to state agencies and local government. \$.25 to \$4.25 per hour.

DEDUCTION:

- 5% Cost of incarceration

The business operations and ties with private sector partners are managed by Correctional Industries staff and the overall direction is established by the Correctional In-

dustries board of directors. The Correctional Industries board of directors is comprised of both business and labor interests. The board has the authority to set policy, provide overall guidance, and to manage and review the performance of the organizations.

Department of Corrections Health Care: One of the most significantly rising costs in the prison system is inmate health care. Since 1986, the health care expenditures for inmates in prison have almost tripled. The expenditures have risen from \$10.97 million in 1986 to \$33.3 million in 1994. This represents an increase of 86 percent in the average annual expenditure per offender for health care. These costs are expected to continue to rise as medical costs inflate, the prison population grows, and an increasing number of inmates become older and need additional health and long-term care.

Currently, the Department of Corrections' policy is to "provide, at a minimum, a degree of care which is designed to reasonably respond to an inmate's serious medical and dental needs." Class action litigation has helped shape this policy and the health care services that the state is required to provide under it. The department is required to pay for all the health care needs of inmates attended to under this policy. Health care provided by the Department of Corrections can be grouped into four broad types of care as follows:

- Medical care to meet inmates' serious medical needs
- Basic dental care
- Mental health treatment and counseling
- Drug and alcohol rehabilitation

Medical co-payments have been found to reduce health care expenditures by discouraging over utilization and inappropriate use of health care services and are an important part of health care reform. Currently, inmates who receive health care in state prisons are not required to pay in part or in full for their health care. The inmates are also not required to pay co-payments for each medical visit.

Operating Costs: In 1994, the legislative budget committee conducted a report on the Department of Corrections (Report 94-1). The report noted that custody staffing, medical services, and administration are significantly different in Washington than in other states, and as such, deserve further review.

Summary: WORK AND EDUCATION PROGRAMS

Policies. The department must establish policies on work and education programs, including a requirement that inmates work or participate in education, or both.

Assessment. With limited exceptions, the department is directed to assess an inmate's educational level and skills within 30 days of the inmate's commitment to the department. The department is required to use professionally accepted tests for reading, math, and language skills to measure grade level equivalencies.

Exemptions - The requirement for inmates to participate in work and education programs to receive good time and qualify for use of privileges does not apply to inmates

with physical or mental impairments, inmates in segregation, inmates in protective custody, inmates on death row, inmates in sex offender treatment or mental health treatment, or inmates in illegal alien offender camps.

Prioritization/Placement Criteria - All inmates with skills below 8th grade basic skills level must be placed in a combined work and education program. Inmates are placed in appropriate programs based on placement criteria: release date; custody level, education and work skills assessment; economic circumstances, prior performance.

Financial Responsibility - Inmates are required to pay on a sliding scale, based on ability to pay, for the following: (1) AA or BA programs when placed by DOC and (2) second and subsequent vocational programs associated with work programs. Inmates must pay full costs or tuition for the following: post-secondary academic degree programs when not placed in the program by DOC; second and subsequent vocational programs when not associated with work programs. Participation in education programs is on a space available basis only.

Funding and Prioritization of Resources - The department is required to prioritize resources for education in the following order: (1) basic academic skills through high school or GED and vocational training; (2) additional work and education programs based on assessment and placement criteria; (3) other work and education programs not related to assessment and placement criteria.

Miscellaneous Education and Work Issues - After review of all education and vocational programs, the department must take the necessary steps to ensure all programs are relevant to work programs and skills necessary for employability. The department must adopt a plan to reduce the per-pupil cost of instruction by increasing volunteers and implementing technological efficiencies such as distance learning. The department is required to coordinate education/work programs to facilitate continuity of programming among inmates who are transferred.

PRIVILEGES/EARNED EARLY RELEASE

The department is mandated to develop and implement a system, in rule, that links an inmate's participation in education and/or work programs with an inmate's access to privileges. All inmates are required to pay for both the capital and operating costs of privileges. The department is required to develop the operating standards in rule for the amount and type of payments for privileges.

EXTENDED FAMILY VISITATION PROGRAM

The department is required to establish a uniform policy on the privilege of extended family visitation. In this policy, DOC must give 60 days notice to the Legislature of intent to change policy and is required to seek the advice of the joint legislative committee prior to making any changes. DOC must give 30 days notice to the Legislature of any public hearing on adoption, revision, or repeal of any rules relating to extended family visitation, except in emergency.

CONTRABAND

The department must adopt a rule establishing a uniform policy on contraband. Contraband is defined as objects or communication that the department determines should not be possessed, received, or sent by prison inmates.

The rule is to provide maximum protection to legitimate penological interests, including security and deterrence of criminal behavior, while protecting inmate's free speech rights. The department is to confiscate contraband consistent with constitutional restraints. The department is to consult with the attorney general and the newly-created joint legislative oversight committee in developing the rule.

NAME CHANGES

Inmates applying to the court to have their name changed are required to notify the department in advance. The court is prohibited from issuing the name change order if doing so would interfere with legitimate penological goals. Exceptions can be made for religious reasons, cultural reasons, or in recognition of marriage or divorce. The department may require the offender to continue using his or her committed name during all interactions with department personnel. Violation of the notice requirement is a misdemeanor.

DEDUCTIONS FROM OUTSIDE MONEY

All money received by an inmate from outside prison is subject to the same mandatory deductions as Class I industry wages. This includes:

- 5 percent** Crime victims compensation
- 10 percent** Inmate savings account (non-lifers only)
- 20 percent** Cost of incarceration

INMATE HEALTH CARE CO-PAYMENTS

All inmates must receive a health assessment upon entry to the prison system. Inmates are required to pay a \$3 co-payment for health care services that are inmate-initiated and non-emergency. There is no requirement to pay if the visit is initiated by prison staff or if there is a serious health care need. Indigent inmates are allowed to obtain health care services without cost. The department is required to report annually to the Legislature on several aspects of the co-payment program. The department is required to adopt a uniform policy relating to the distribution and replenishment of personal hygiene goods. Inmates are required to pay for the personal hygiene goods. Unpaid co-payments and payments for personal hygiene items are assessed as a debt to the offender.

COST ASSESSMENT FOR SUPPLIES AND SERVICES

The department is required to charge all inmates for services and supplies and recoup assessment for essential services or supplies provided to indigent inmates. No inmate will be denied constitutionally required services or supplies based on inability to pay.

WORK ETHIC CAMP

Eligibility is expanded by removing the upper age limit of 28 years, and by lowering the minimum eligible

sentence from 22 months to 20 months. Certain drug dealers can be eligible after a special review of their circumstances. The department may identify offenders who are eligible for the work ethic camp. With the concurrence from the sentencing judge, the department can refer the offender to the work ethic camp and adjust the time served.

ILLEGAL ALIEN OFFENDER CAMP

By January 1977, the department is authorized to establish a camp for alien offenders to be located at an existing facility. The department must develop an implementation plan by December 1995 to meet the following goals: (1) expedited deportation; (2) reduced daily costs of incarceration; (3) enhanced public benefit through work programs and exemption from education programs; (4) minimal access to privileges; (5) maximized use of non-state resources; (6) recommendations for state law and fiscal issues necessary for implementation.

The plan must address: (1) eligibility criteria for prompt admission; (2) minimum/maximum length of the camp; (3) operational elements; (4) mitigation of adverse impact on other offender programs; (5) meeting the goals of the camp.

The department must consult with the joint legislative committee and appropriate public safety organizations.

DEPARTMENT OF CORRECTIONS BUDGET CUTS

Any staffing cuts required by the 1995-1997 budget shall be implemented to preserve the safety of the institution and the public. All reductions must be targeted toward exempt positions within DOC, including management level positions of lieutenant and above. Future recreation leader ratios must stay constant at 1995-1997 budget level.

AUDITS, REVIEWS, AND STUDIES

- The Legislative Budget Committee is required to conduct an audit review of the department's budget process and the department's 1995-97 operating budget request.
- The Health Care Authority is required to contract out for review of the corrections medical system and assess potential savings by contracting out correctional medical services.
- The Department of Transportation is required to review DOC's marine transportation operation and conduct a cost-efficiency analysis.
- The Office of Financial Management, in cooperation with the Department of Corrections and General Administration, is required to conduct a cost-efficiency study of the department's food services program.
- The Department of Corrections is required to review the concept of rotational bunking and analyze how this concept can be implemented.

CORRECTIONAL INDUSTRIES BOARD

The board is mandated to review the feasibility of implementing a number of different proposals for correctional industries.

DEPARTMENT OF CORRECTIONS' COST EFFICIENCY FOCUS GROUP

The department is directed to establish a focus group including representation from management, line staff, and other selected vested individuals. The focus group will meet quarterly and make recommendations concerning improving operations and identifying cost efficiencies. The superintendents shall prepare annual reports summarizing their responses to the recommendations.

LEGISLATIVE OVERSIGHT COMMITTEE

A six-member legislative oversight committee is established. The oversight committee is required to oversee implementation of this act and related laws. The committee is required to review department rules. The committee is required to report to the Legislature on the department's cost savings and to make recommendations for further savings.

ART AND CAPITAL CONSTRUCTION IN CORRECTIONAL FACILITIES

No money may be appropriated or expended for public art in DOC facilities through June 30, 1997. The Arts Commission and DOC must prepare a report to the legislature by July 1996 on the feasibility of developing a Class I or II industry for creation of public art within DOC. The requirements of the report are outlined.

CLASS II INDUSTRIES

Subject to the approval of the Correctional Industries Board, prohibitions against contracting out work performed by classified employees shall not apply to contracts with Washington business entered into by the department through Class II industries.

SUPERVISION OF MISDEMEANANT PROBATIONERS

The requirement that all superior court misdemeanants be placed under supervision is removed. Judges are given the discretion to make supervision decisions. The Department of Corrections is authorized to collect supervision fees up to \$100 per month per offender. The Washington Law and Justice Advisory Council is required to develop proposed standards and report back to the Legislature.

FEDERAL WAIVERS FOR MCNEIL ISLAND

The department is directed to seek federal waivers to allow expansion land use and opportunities at McNeil Island. The department is also required to identify any state statutory or regulatory constraints that would impede the requested expansions on the island.

Votes on Final Passage:

House	88	7	
Senate	48	0	(Senate amended)
House			(House refused to concur)

First Special Session

House	90	0
Senate	45	0

Effective: June 15, 1995

Partial Veto Summary: The partial veto removes provisions addressing the corrections advisory teams, four studies of Department of Corrections operations and programs, and the restrictions on the number of recreational leader positions. Also vetoed was a null and void clause. Clarification was provided to the establishment of the camp for alien offenders to insure that the camp applies to only "non-legal" alien offenders.

VETO MESSAGE ON 2SHB 2010

June 15, 1995

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 22, 26, 34, 35, and 39, Second Engrossed Second Substitute House Bill No. 2010 entitled:

"AN ACT Relating to Corrections;"

Second Engrossed Second Substitute House Bill No. 2010 represents hard work and strong commitment. I applaud the 1995 legislature for taking on the rigorous task of examining ways to make inmates more accountable and the Department of Corrections more efficient. This legislation is far reaching and required an appreciation and understanding of varied and often conflicting philosophies and agendas. While I note some concerns with this legislation, it is vital to note my great confidence in our accomplishing the goals addressed.

I will begin by addressing an important issue raised in section 21, which I am not vetoing. This section authorizes the Department of Corrections to establish a camp for alien offenders. The Department of Corrections is also directed to develop an implementation plan for the camp by December 1, 1995 and be ready to assign offenders to a camp, if any is established, by January 1, 1997. Section 21, on its face, applies to all alien offenders, whether documented or undocumented, and whether or not the offenses for which they are incarcerated leave them subject to deportation. Further, the goals for the camp — to expedite deportation and reduce costs — envision early release by the Department of Corrections and rapid deportation by federal officials. It is clear that a great deal of continued state and federal effort and cooperation will be necessary before this vision is realized.

Of most importance, however, is the need to avoid any appearance that the state of Washington is sending an anti-alien message generally. We have all seen the regrettable results of cost saving or efficiency measures escalating into issues of discrimination or even ethnic separation. I have been assured, however, that no such message should be read into the language of this section. I have received a letter signed by Representative Ballasiotes on behalf of the members of the conference committee who worked so hard on the details of this legislation. She states that only "non-legal" alien offenders are or ever were to be considered for participation in the proposed camp.

It is with that understanding that I approve this section. The Department of Corrections will have much needed time and flexibility to work with federal officials and return to the legislature with plans and concerns. I share the desire expressed by Representative Ballasiotes that we work closely together on further development and implementation. We will do so.

Section 22 requires the Department to create a "Corrections Advisory Team" at each institution with more than 100 offenders. While I strongly support the advisory value of stakeholders in the cost-effective operation of our prisons, there are a number of reasons for removing this section. First, the mandated advisory teams are duplicative of existing oversight represented by state and local labor-management committees provided for in collective bargaining agreements; state and local law and justice planning committees provided for in RCW 72.09.300; the correctional

industries board provided in RCW 72.09.070; and the institutional, community advisory committees authorized under RCW 43.88.500-515.

The advisory teams mandated by this section generate added costs to the taxpayers for team support services, travel expenses, per diem costs, and backfill expenses related to mandated staff membership. Further, in the absence of any mandate that these teams work together relative to the total operation of the prison system, there is high risk that program fragmentation would occur, exacerbating rather than reducing system inefficiencies and costs. In spite of the veto of this section, we must work together to promote operational efficiencies and I strongly encourage cooperation between management and line level employees at each institution through existing mechanisms.

Section 26 is divided into four subsections requiring that four different studies be conducted. The drafting in certain subsections is unclear as to exactly what is to be studied and no funds are provided to conduct them. Although technical and fiscal concerns as outlined below dictate a veto of this section, I will direct the affected agencies to work with legislators and legislative staff, to the greatest extent possible without additional resources, to provide the legislature with all of the information requested.

Subsection 1 directs the State Auditor to review the Department of Corrections budgeting process and operating budget request for the 1995-97 biennium. The agency budget request is a part of a complex budget process that ultimately produces several sections in an appropriations act. The Department of Corrections' budget is reviewed by the Office of Financial Management in preparation for my budget recommendation, and then reviewed by both House and Senate Committees. It is unclear what the Auditor is to make recommendations on. If the intent was to perform a performance audit, it is not stated here. Budget development and related policy implications are the arena of the executive branch and the legislature. The role of the Auditor is to ensure the legal implementation of those budgets.

Subsection 2 directs the Department of Transportation to review the feasibility and desirability of privatizing the Department of Corrections marine fleet, operation, or both. The Department of Transportation has expressed a willingness to conduct this feasibility study within existing resources, and will report to the legislature as outlined in this subsection.

Subsection 3 directs the Office of Financial Management and the Department of General Administration to review the food planning model developed by the Department of Corrections for possible expansion to a uniform state-wide system. I will direct these agencies to examine this topic and communicate their findings to the legislature.

Subsection 4 directs the printing and duplicating management center of the Department of General Administration (GA) to review the feasibility and desirability of establishing a class II correctional industry within one or more correctional institutions. The printing and duplicating management center of GA no longer exists. In addition, Correctional Industries already operates printing facilities pursuant to agreements with the State Printer. With regard to the development of a printer's apprentice program, the Department of Corrections has consistently worked to expand apprentice programs across the entire continuum of Correctional Industries programs.

Section 34 conflicts with the assumptions contained in Section 223 (Department of Corrections) of Engrossed Substitute House Bill 1410, the Omnibus Appropriations Act. Staff reductions and efficiencies will be implemented consistent with the assumptions in the Omnibus Appropriations Act.

Section 35 places into statute the staffing ratios for recreational leader positions 2, 3, and 4 as provided for in the omnibus appropriations act. This approach fails to account for the expansion to new facilities or the changing environment within the corrections system. In addition, the language is inconsistent with other sections of this act which direct Correctional Industries (CI) to study the possibility of a work program to provide opportunities for support staffing in recreation and fitness programs. All of these

HB 2022

could result in changes in these staffing levels. The Omnibus Appropriations Act is the appropriate vehicle to deal with this issue, placing it under a biennial review.

Section 39 states that this bill shall be null and void if it is not referenced in the biennial budget. Section 40 declares an emergency and states that the bill shall take effect immediately. These two sections are inconsistent. If a bill is "necessary for the immediate preservation of the public peace, health, and safety" it cannot also be subject to the uncertainties of the appropriation process. There are some elements of this bill that will provide immediate benefits and are consistent with the immediate implementation provided by section 40. Therefore, I am vetoing section 39.

For these reasons, I am vetoing sections 22, 26, 34, 35 and 39 of Second Engrossed Second Substitute House Bill No. 2010.

With the exception of sections 22, 26, 34, 35 and 39, Second Engrossed Second Substitute House Bill No. 2010 is approved.

Respectfully submitted,



Mike Lowry
Governor

HB 2022

C 114 L 95

Making mining claims.

By Representative Fuhrman.

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: Early federal mining laws encouraged interested parties to claim federal land for mining purposes. However, the federal government wanted to discourage the holding of claims without development. As a continuing incentive for claim development, since 1872, the federal government has required that not less than \$100 worth of labor be performed or improvements made each year in order to keep claims active. Recent changes to federal mining law allow, in some circumstances, payment of a \$100 claim maintenance fee in lieu of the requirement for labor or improvements.

State law also requires these claim holders to be "diligently engaged in the search for minerals." A person must annually perform at least \$100 worth of assessment work on the claim for each year required under federal law.

Summary: State law regarding claims on federal lands is changed to better mirror the recent changes in federal mining laws. "Diligently engaged" in state law may mean paying a fee in lieu of assessment work. The person may show an affidavit of labor performed or an affidavit or oath of fee or fees paid to the federal government in lieu of the annual labor requirement. If the federal government has waived both fee and labor requirements, the affidavit will

contain a statement to that effect, and the state will not require labor to be performed.

Votes on Final Passage:

House	95	0
Senate	42	0

Effective: July 23, 1995

EHB 2033

C 362 L 95

Providing an exemption to the Washington clean air act for fire training.

By Representatives D. Schmidt and Scott.

House Committee on Government Operations
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 the Department of Ecology, where such an authority does not exist, issues permits for setting fires, including fires for weed abatement, agricultural activities, instruction in methods of fire fighting, yard waste, and land clearing projects.

A permit is not required for setting fires for forest fire fighting training purposes.

Further, legislation was enacted in 1994 permitting fire protection district fire fighters to set fire to structures for fire fighting training purposes without obtaining a permit from an air pollution control authority, or the Department of Ecology, if certain conditions are met, including:

- The structure is located outside of an urban growth area designated under the Growth Management Act, and also outside of a city with a population of 10,000 or more;
- The area is not declared to be in an air pollution episode or in any stage of impaired air quality;
- Nuisance laws apply to the fire;
- A good faith effort is made to remove any asbestos from the structure; and
- Notice is provided to owners of adjacent property and other persons who will be potentially impacted.

Summary: A permit is not needed from a local air pollution control authority, or the Department of Ecology,

to set a fire for training to fight aircraft crash rescue fires, if the following conditions are met:

- The only fire fighters who participate are those providing support to an airport that is either certified by the Federal Aviation Administration or is operated in support of military or governmental activities;
- The fire is not conducted during an air pollution episode or any stage of impaired air quality.
- The number of training fires allowed per year without a permit is limited to the minimum number necessary to meet federal aviation administration safety requirements; and
- Prior to commencing the aircraft fire training, the local fire department and air pollution control authority or Department of Ecology is notified of the exercise.

The prohibition on outdoor burning of garbage, rubber products, plastics, petroleum products, and other substances emitting dense smoke or obnoxious odors is not applicable to a fire set for training to fight aircraft crash rescue fires.

These provisions expire on the earlier of either July 1, 1998, or the date the North Bend fire training center is fully operational for aircraft rescue fire training activities.

Votes on Final Passage:

House	93	5	
Senate	38	9	(Senate amended)
House	92	3	(House concurred)

Effective: July 23, 1995

ESHB 2036

C 214 L 95

Concerning the sale of consumer credit unemployment insurance.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative L. Thomas).

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

Background: The Office of the Insurance Commissioner regulates insurance in Washington. Agents and brokers must be licensed by the Insurance Commissioner. The Insurance Commissioner may issue a limited license for transacting credit life and casualty insurance. Credit life insurance generally pays off the loan balance in the event of the death of a borrower. Credit casualty insurance generally covers part or all of the monthly payment when a covered event interferes with a borrower's ability to repay the loan. Examples of covered events include an accident, a disability, or involuntary unemployment.

Summary: A person may obtain information from a borrower related to processing a credit casualty insurance request without being a licensed agent or broker. The

Insurance Commissioner may issue a limited license to allow transaction of credit casualty insurance.

Votes on Final Passage:

House	95	0
Senate	39	1

Effective: July 23, 1995

EHB 2057

C 305 L 95

Changing judicial retirement eligibility.

By Representatives Appelwick and Foreman.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: State judges in the judicial retirement system (JRS) qualify for service retirement by completing 15 years of service or by reaching age 75. A partial service retirement is granted if the member involuntarily leaves service at any time after serving 12 years.

JRS members contribute 7.5 percent of their salary to the system, and there are no provisions for withdrawing these contributions.

Summary: A member of the judicial retirement system with 12 years of service who is appointed to a federal judgeship or to the position of federal magistrate may qualify to receive a partial retirement allowance upon reaching age 60, and 15 years after becoming a JRS member. This bill applies retroactively to October 1, 1994.

Votes on Final Passage:

House	82	14	
Senate	45	1	
House			(House refused to concur)
Senate	47	0	(Senate receded)

Effective: July 23, 1995

SHB 2058

C 242 L 95

Defining employment.

By House Committee on Commerce & Labor (originally sponsored by Representative Robertson).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: For purposes of coverage under unemployment insurance, employment is defined as personal services performed for wages or under contract providing for the performance of personal services.

Some services performed by individuals for payment may not be considered employment for purposes of unemployment insurance coverage. An individual must show the following to qualify as an independent contractor and

SHB 2060

not an employee: (1) That he or she is free from control or direction over the performance of the services, (2) that the service performed is outside the normal course of the business for which the service is performed or that the service is not performed on the premises of the business for which the service is performed, and (3) that the individual is independently engaged in a similar occupation or business to that for which the service is performed. In 1991, additional criteria were established that would allow services performed to be excluded from an employment relationship.

Services performed for payment may not be considered employment if they are exempted by statute. Examples include services performed by musicians or entertainers, insurance agents and brokers, real estate agents and brokers, barbers and cosmetologists.

Summary: For purposes of unemployment insurance coverage, employment does not include services performed by an outside agent who sells or arranges for travel services that are provided to a travel agent if the outside agent is paid by commission.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House			(Ruled beyond scope)
Senate	47	0	(Senate receded)

Effective: July 23, 1995

SHB 2060

C 155 L 95

Redefining budget document.

By House Committee on Appropriations (originally sponsored by Representative Foreman).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Budget and Accounting Act requires that the Governor's biennial budget document be a formal written statement.

Summary: The Governor's budget document may be in either written or electronic form, or both.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 23, 1995

HB 2063

C 363 L 95

Accelerating the implementation of projects currently eligible for funding under the public works assistance program.

By Representatives Honeyford, Sehlin and Chopp.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Public Works Trust Fund Program (program) was created by the Legislature in 1985 as a revolving loan program to assist local governments and special purpose districts with infrastructure projects. The program is funded through the Public Works Assistance Account (account), which receives revenue from utility and sales taxes on water, sewer, and garbage collection services; loan repayments; and a portion of the real estate excise tax. Infrastructure projects eligible for loan funding through the program include acquisition, construction, repair, and replacement of bridges, streets and roads, water systems, and sanitary and storm sewer projects. Port districts and school districts are expressly prohibited from receiving loans through the program.

The program is administered by the Public Works Board (board) within the Department of Community, Trade, and Economic Development. The board is composed of 13 members appointed by the Governor, representing cities; counties; water, sewer, and public utility districts; and the general public.

The Capital Budget provides for appropriations from the Public Works Assistance Account. Before allocating loan funds to local governments, the board must submit a list of recommended projects to the Legislature for approval. The Legislature may remove projects from the list but may not change the order of recommended priorities. Loans for capital facilities plans and emergency projects are exempt from the legislative approval requirement but must be reported to the Legislature in an annual report.

Summary: In order to accelerate project completion, the Public Works Board may make loans for preconstruction activities on public works projects before legislative approval of the construction phase. Preconstruction activities are defined to include design, engineering, bid-document preparation, environmental studies, right-of-way acquisition, and other preliminary phases of projects prior to construction.

The board must adopt a single application process for local governments seeking both a preconstruction activity loan and a construction loan for a project. The receipt of a preconstruction activity loan does not ensure receipt of a construction loan for the project. Construction loans continue to require approval by the Legislature through the annual approval process.

Preconstruction loans may be made only from funds specifically appropriated for such purpose by the Legisla-

ture. The board must report any preconstruction loans made under this new authority to the Legislature in the annual report.

Votes on Final Passage:

House	96	0
Senate	45	3

Effective: July 23, 1995

SHB 2067

C 306 L 95

Extending property tax exemptions for nonprofit arts, scientific, or historical organizations.

By House Committee on Finance (originally sponsored by Representatives Foreman and Mastin).

House Committee on Finance
Senate Committee on Ways & Means

Background: Property owned or leased by a nonprofit artistic, scientific, historical, literary, musical, dance, dramatic or educational organization used exclusively for safekeeping, maintaining, and exhibiting collections or for the production and performance of musical, dance, artistic, dramatic, or literary works is exempt from property tax. The property is exempt only if used for the exempt purpose.

Summary: Property being constructed or remodeled for use by a nonprofit artistic, scientific, historical, literary, musical, dance, dramatic or educational organization is exempt from property tax. To be eligible for the exemption, the organization must show a reasonably specific and active program to enable the property to be used for an exempt purpose within a reasonable period of time. A for-profit limited partnership created to provide facilities for nonprofit art, scientific or historical organizations is also eligible for this exemption through 1997. The property is not eligible for property tax exemption if used by a for-profit organization during construction or remodeling.

Votes on Final Passage:

House	96	0
Senate	39	0 (Senate amended)
House	95	0 (House concurred)

Effective: May 9, 1995

HB 2076

C 3 L 95 E2

Simplifying disposition of drivers' license fees.

By Representatives Skinner, Honeyford, Clements and K. Schmidt.

Background: Washington State drivers pay a \$14 driver's license fee every four years. Historically, \$3.80 has been deposited in the general fund, and \$10.20 has gone into the highway safety fund for driver-related purposes.

Summary: As of July 1, 1995, the entire \$14 driver's license fee shall be deposited in the highway safety fund.

Votes on Final Passage:

First Special Session

House	97	0
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Second Special Session

House	93	0
Senate	48	0 (Senate amended)
House	93	1 (House concurred)

Effective: July 1, 1995

2ESHB 2080

PARTIAL VETO

C 14 L 95 E2

Providing transportation funding and appropriations.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Hankins, Benton, Elliot, Skinner, Buck, McMahan, Robertson, Johnson, D. Schmidt, Chandler, Mitchell, Koster, Backlund, Cairnes, Horn, Blanton and Stevens).

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature must make biennial appropriations for each agency's operating budget and capital improvements. The transportation budget provides funding for the agencies and programs supported by transportation revenues.

Summary: DEPARTMENT OF TRANSPORTATION

- Nearly \$60 million is shifted from the Department of Transportation (DOT) operations and administration to capital projects through cost efficiencies and program reductions.
- Over 30 high occupancy vehicle (HOV) projects are funded for a total of \$249 million, including \$47 million for two delayed HOV projects that will be funded pending a favorable settlement of the gasohol lawsuit or public approval of the repeal of the gasohol exemption.
- Construction will begin on \$95 million of urban/rural capacity improvement projects committed to in the 1990 transportation revenue package. These projects

would not have been constructed under the Transportation Commission's "no new revenue" proposal.

- \$34.5 million is provided for intercity rail passenger facilities and services including \$12 million for lease-purchase of two Talgo-type train sets, provided the train sets are assembled in Washington state. The new service from Seattle to Vancouver, B.C., including service to Everett, Mt. Vernon and Bellingham is supported, and state-supported service from Seattle to Portland is continued.
- \$5 million in Federal Surface Transportation Program enhancement funds is made available to preserve freight rail corridors for future freight rail service and to begin renovation of the King Street Station in Seattle.
- Funding is increased from \$1.5 million in 1993-95 to \$2.5 million for the Rural Mobility Program to assist those areas of the state having little or no public transportation.
- The acquisition of a new prototype passenger-only ferry for the Washington State Ferry System is funded using revenue from a newly created Passenger Ferry Account.
- \$289 million is provided to fund pavement preservation on state highways. This amount represents an increase of \$36 million over the amount requested by DOT, but is estimated to be \$20 million less than projected needs.
- An additional \$6.5 million is appropriated for construction of all-weather roads (for a new total of \$20 million) in order to reduce road closures and weight restrictions on critical sections of the state's highways.
- First-year funding is provided for the public-private initiatives program.
- \$5 million is made available for infrastructure associated with the new horse racetrack in Western Washington.
- \$2.2 million is provided for removal of fish barriers on state highways, an increase of \$400,000 over the agency request.
- \$2.7 million is appropriated to address congestion at the Blaine border crossing, contingent upon the project being designated a federal demonstration project.
- DOT staff is reduced by over 500 FTEs compared to the 1993-95 authorized level.
- DOT construction projects are funded without the use of any new bonds.

WASHINGTON STATE PATROL AND DEPARTMENT OF LICENSING

- Transportation funds are used to pay for \$17 million of state general fund activities assumed in 1993 for the Washington State Patrol (WSP) and the Department of Licensing (DOL). This cost is mitigated by the return of the \$3.80 of the \$14 driver license fee that has been deposited into the general fund since the early 1970s.

This shift will free up \$7.8 million of highway moneys that had been diverted to DOL to cover budget shortfalls.

- Funding is added to prevent closure of four Driver Licensing Examination Offices throughout the state.
- Development of the Licensing Application Migration Project (LAMP) is continued by providing \$15.2 million for fiscal year 1996 costs.
- A trooper level of 735 in the State Patrol field force during the 1995-97 biennium is established, an increase of 35 over the 1993-95 level.
- Salaries are increased by 9% during the biennium for commissioned, commercial vehicle enforcement, and communications officers to achieve parity with officers in other law enforcement agencies..
- Funding is provided to the WSP for an increased effort to identify and collect revenues associated with vehicle license fraud.
- Collocation of DOL, WSP, DOT facilities is continued to provide "one-stop" transportation services.

OTHER AGENCIES

- A reappropriation of \$700,000 and a new appropriation of \$1.8 million are provided to the Regional Transit Authority (RTA) to continue development of a revised regional plan to present to voters in Spring 1996. If no positive vote occurs by May 31, 1996, the RTA is abolished and high capacity transportation taxing authority reverts to transit agencies in King, Pierce, and Snohomish counties.
- \$750,000 is appropriated for the development of a regional mobility plan to serve as an alternative to the plan developed by the RTA.
- The Office of Marine Safety (OMS) is merged into the Department of Ecology as of January 1, 1996. OMS administers programs to prevent oil spills in Washington State waters.
- Funding for Traffic Safety Commission DWI task forces is increased from \$300,000 to \$900,000 and new programs targeted at reducing the incidence of drug-related accidents are funded.
- Funding is provided to the Department of Community, Trade, and Economic Development to retain staff at seven gateway visitor information centers.

TOTAL TRANSPORTATION BUDGET

1993-95 Estimated Expenditures: \$3.395 billion

1995-97 Appropriations: \$3.130 billion

Votes on Final Passage:

House	55	39	
House	55	39	(House reconsidered)
Senate	41	7	(Senate amended)
House			(House refused to concur)

Second Special Session

House 60 34
 Senate 44 4 (Senate amended)
 House 60 34 (House concurred)

Effective: July 1, 1995

January 1, 1996 (Sections 514 to 524)
 Contingent effective dates, no later than
 May 31, 1996 (Sections 539 to 556)

Partial Veto Summary: The following items were vetoed: A statement that 1995 legislation with fiscal impacts is not funded in the transportation budget unless assumed in this act; the creation of a task force on the issues related to the Office of Marine Safety and oil spill prevention; a requirement that transportation funds may only be transferred to the tort claim revolving fund as claims are settled or adjudicated to final conclusion; limitations on the use of road maintenance funds by the State Parks and Recreation Commission; limitations on the Transportation Commission pertaining to number of commissioner work days, approval from the Legislative Transportation Committee (LTC) before conducting studies, and travel outside the state; a proviso forbidding the sale or purchase of aircraft by the State Patrol until the LTC completes a study of the feasibility of consolidating the state's air fleet; \$10 million from the high capacity transportation account and the central Puget Sound public transportation account for high occupancy vehicle lanes; a requirement that \$5 million in federal transportation enhancement moneys be used exclusively for King Street Station and freight rail corridor preservation; the use of \$1.4 million for interjurisdictional transportation evaluations and reviews; \$2.5 million provided as the Department of Transportation (WSDOT) share of repairs to the plaza garage; a study of consolidating the financial functions of WSDOT, the Transportation Improvement Board, and the County Road Administration Board; and items pertaining to the Regional Transit Authority (RTA) including repeal of the RTA if a funding package is not approved by voters by May 31, 1996, and changes to the RTA statutes.

VETO MESSAGE ON HB 2080-S

June 16, 1995

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(2); 105(2); 106 (lines 3-10); 107 (lines 14-18); 207(1); 207(2); 207(3); 207(4); 208(4); 217 (lines 26-27); 217 (lines 32-33); 217(17); 228(2); 228(4); 305; 504; 529; 531; 532; 537; 539; 540; 542-557; 559 and 560, Second Engrossed Substitute House Bill No. 2080 entitled:

"AN ACT Relating to transportation funding and appropriations;"

The provisions of Second Engrossed Substitute House Bill No. 2080 not meeting my approval are addressed as follows:

Section 2(2), page 2, Transportation Appropriations

This proviso states that legislation with a fiscal impact enacted in the 1995 session that is not assumed in this bill is not funded in

the transportation budget. The language is ambiguous and I am concerned that this administrative restriction sets a bad precedent. Several bills could meet this criterion, including Substitute Senate Bill 5119, Cost-Of-Living Allowances For Retirement Purposes. Failure to veto this proviso could disrupt pension systems that are funded by the transportation agencies included in this budget bill.

Section 105(2), page 4, Task Force on Office of Marine Safety

This language requires the Legislative Transportation Committee to convene a task force to study the cost savings associated with the transfer of the Office of Marine Safety into the Department of Ecology, examine any funding shortfalls in the Oil Spill Administration Account, and evaluate ongoing oil spill planning and prevention needs. Because the legislature may conduct studies at any time without such specific direction, I am vetoing this subsection. However, I recognize that there is a significant problem with the revenues for the Oil Spill Administration Account.

Therefore, I am directing the Office of Financial Management, the Department of Revenue and the Department of Ecology to coordinate a study on oil spill funding, including the issue of the tax credits and whether current distribution of the nickel-per-barrel tax that funds the two oil spill accounts is adequate.

Section 106, lines 3-10, page 5, Transfer to the Tort Claims Revolving Fund

This proviso limits the transfer of transportation funds to the tort claim revolving fund only as claims are settled or adjudicated to final conclusion. Current law requires that the tort claim revolving fund be used only to pay claims resulting from incidents on or before June 30, 1990. This change would return us to the administrative inefficiencies and costs associated with the "pay as you go" system for tort claims that was in place prior to 1990, adding a new layer of complication to an already complicated system. The reconciliation and reporting requirement would likely delay both settlement and judgment payments, and also could increase the cost of claims by requiring penalty interest payments. In addition, the state could lose an otherwise advantageous settlement opportunity if we are unable to meet time requirements on settlement demands. In order to limit administrative burdens, I will direct the Department of General Administration to transfer the amount specified in this proviso for motor vehicle and marine operating accounts into the tort claims revolving fund based on actuarial projections of claims settlements. The transfers shall be made quarterly into the tort claim revolving fund, or as necessary to meet cash flow needs.

Section 107, lines 14-18, page 5, State Parks and Recreation Commission - Operating Maintenance

This proviso limits expenditure of state funds by the State Parks and Recreation Commission for maintenance, repair, or snow and ice removal on county or private roads. I believe the intent was to limit the \$927,000 motor vehicle fund appropriation in this section. However, the way the section is written allows for much broader interpretation. I am concerned that this proviso could restrict expenditure of any funds appropriated to the Parks Commission to maintain county or private roads. The Commission often signs mutually beneficial agreements with cities and counties for snow removal or road maintenance, which allows the Commission to remove snow or maintain a limited portion of city or county roads. Such agreements may save taxpayer dollars in such instances as providing access to Snow Parks for snowmobile riders and cross country skiers. The Commission needs to maintain the flexibility to make such beneficial decisions.

Section 207(1) and 207(2), page 9, Transportation Commission Work Days

This proviso limits Washington State Transportation Commission members to seven working days per month and limits the Commission Chairperson to 9.5 working days per month. In addition, the total appropriation for Commission member work days is limited to \$45,000 in fiscal year 1997, which further reduces member working days to only five days per month. This

type of limitation on state boards is unprecedented and will hinder statewide coordination of transportation issues.

The Transportation Commission is a class four board as defined by RCW 43.03.250. The Commission has rule-making authority, performs quasi-judicial functions, and is responsible for the administration, budget, and policy direction of a major state department. These duties are sensitive and vital to the operation of the state and place a significant demand on each member's time - usually in excess of 100 hours per year. Commission members should not be limited to a specified number of work days to carry out their duties as long as their overall operating budget expenditures are within the appropriation level provided.

Section 207(3), page 9, Transportation Commission Studies

This proviso prohibits the Washington State Transportation Commission from conducting studies or hiring consultants without prior approval from the Legislative Transportation Committee. This represents an unprecedented attempt by the legislature to exercise ongoing management control over an executive branch function. The legislature has already reduced the agency's budget 42 percent from 1993-95 levels. As long as the Commission stays within its available appropriation, Legislative approval on individual expenditures is unnecessary.

Section 207(4), page 9, Transportation Commission Meetings Outside the State

This proviso will prohibit the Washington State Transportation Commission from holding meetings outside of the state. It is overly restrictive and unnecessary. Although I have ordered state employees to limit their out-of-state travel, I support the Transportation Commission's leadership role in statewide and regional transportation issues. Our transportation needs do not end at the state's borders. Transportation Commission members must have the flexibility to meet with policy makers from such places as Oregon, Idaho and British Columbia, as long as travel costs remain within the agency's total budget.

Section 208(4), page 10, Selling and Purchase of State Patrol Aircraft

This proviso to the Washington State Patrol appropriation forbids the sale and purchase of aircraft pending a Legislative Transportation Commission study of the statewide air fleet and the feasibility of consolidation. This proviso unnecessarily delays and reduces savings to the state that would occur from the sale of the State Patrol jet. Further, the proviso does not set forth a date for completion of the study. This lack of certainty could indefinitely prohibit the Patrol from buying and selling aircraft, which impinges on appropriate executive administrative responsibilities.

The legislature had sufficient time during the regular session and two special sessions to study the merits of selling the State Patrol jet. Taxpayers should not have to pay extra for equipment that exceeds the requirements of the agency. I take this action today because the longer we delay, the less we stand to save.

Section 217, lines 26-27 and lines 32-33, page 14, Highway Improvements

Section 217(17), page 19, Highway Improvements - HOV Lanes

Section 531, pages 62-64, and Section 532, page 64, Funding Sources for HOV Lanes

These provisions dedicate an appropriation of High Capacity Transportation Account and Central Puget Sound Public Transportation Account revenues for high occupancy vehicle (HOV) lane construction projects. The two accounts were created for high capacity transportation programs provided by local transit agencies and should not be transferred for any other use.

Section 228(2), page 31, Federal Enhancement Grants

This subsection designates federal enhancement grants for abandoned freight rail corridors and improvements to the King Street Station in Seattle. Identifying specific projects in the appropriation bill circumvents an established public review and citizen-involved project selection process based on regional priorities. When the Intermodal Surface Transportation Efficiency Act (ISTEA) passed in 1991, local and state jurisdictions in Washington mutually agreed upon a procedure for project prioritization

and selection for this federal funding source. This process has been successfully in place since that time. With this proviso, the enhancement project selection process is sidestepped - contrary to the spirit of ISTEA. A veto of this language gives the project selection authority back to the committee that has already approved and prioritized a list of eligible projects for the 1995-97 biennium.

The funding provided in section 228(2) remains appropriated to the Department of Transportation, the pass-through agency for grants awarded by the Enhancement Selection Committee, as they deem appropriate.

Section 228(4), page 31, Transportation Related Studies

This proviso lists several studies selected by the Legislature costing \$1,430,000. The funding source used in this section is dedicated by statute for statewide studies that mutually benefit cities, counties and the Department of Transportation. This year, for the first time, the three jurisdictions had no say in how this money would be spent.

In addition, the proviso specifies \$750,000 for a regional mobility alternative plan related to the Regional Transportation Authority (RTA). This is not an appropriate expenditure of these funds and is not necessary since the Puget Sound Regional Council approved its 1995 Update to VISION 2020 and the 1995 Metropolitan Transportation Plan as required by the federal Intermodal Surface Transportation Efficiency Act.

I have directed the Department of Transportation to place the \$1,430,000 in unallotted reserve. At the end of the biennium, the funds shall be refunded to the individual jurisdictions as provided by RCW 46.68.110(2) and RCW 46.68.120(3).

Section 305, page 37, General Administration — Capital

This section appropriates \$2.5 million motor vehicle account appropriation to cover the Department of Transportation's share of the cost of repairing the plaza garage. However, this amount can only be spent if the capital budget provides \$1.7 million to the Department of General Administration for elevator and escalator repairs in the transportation building. The 1995-97 capital budget does not include such an appropriation; therefore this condition cannot be met, leaving the \$2.5 million for repairing the plaza garage unavailable. Completing structural and other improvements to the plaza garage, including the area commonly known as the DOT garage, is an important project and design work must begin immediately. Therefore, I have asked the Office of Financial Management and the Department of General Administration to work with the Department of Transportation, the Legislative Transportation Committee, the House Capital Budget Committee and the Senate Ways and Means Committee to identify an affordable approach to resolving the safety concerns in all garage areas, and to address accessibility concerns in the transportation building.

Section 504, page 45, Consolidation of Financial Functions

This proviso calls for a study of the feasibility of combining the financial accounting systems for the Department of Transportation, the Transportation Improvement Board and the County Road Administration Board. I see no advantage in performing this study unless the work is done by an independent consultant or another non-transportation agency. Since funding was not provided for an independent study, and the financial systems in place for all three agencies appear to function adequately, this study is not necessary.

Section 529, page 57-61, Passenger Ferry Account

This proviso removes Kitsap County from the high capacity transit tax authority of the Regional Transportation Authority. It is identical to Section 538 of this legislation and is therefore unnecessary.

Sections 537, 539, 540, 542-557, 559 and 560 Regional Transportation Authority

These sections repeal the Regional Transportation Authority (RTA) and amend substantive portions of the High Capacity Transportation Act of 1990 (RCW 81.104) and the RTA enabling legislation (RCW 81.112). Such a significant shift in state policy in resolving the mobility problems in the central Puget Sound

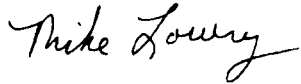
region must be done prudently in a bill directly dealing with this issue, and after thorough consideration of the long-range implications.

I also believe it is premature at this point to change the structure of the regional authority. I am concerned that the RTA be given sufficient time and funds to continue its mandated tasks and that voters be given an opportunity to review a revised regional transportation plan. Rather than a repeal of the RTA, I urge the RTA to work with the Department of Transportation, the Legislative Transportation Committee, counties, cities and transit districts in the area to develop a viable proposal. Should future revision of RTA responsibilities, structure and authority of these agencies be necessary, specific legislation should be introduced to accomplish the agreed-upon changes.

For these reasons, I have vetoed sections 2(2); 105(2); 106 (lines 3-10); 107 (lines 14-18); 207(1); 207(2); 207(3); 207(4); 208(4); 217 (lines 26-27); 217 (lines 32-33); 217(17); 228(2); 228(4); 305; 504; 529; 531; 532; 537; 539; 540; 542-557; 559 and 560 of Second Engrossed Substitute House Bill No. 2080.

With the exception of sections 2(2); 105(2); 106 (lines 3-10); 107 (lines 14-18); 207(1); 207(2); 207(3); 207(4); 208(4); 217 (lines 26-27); 217 (lines 32-33); 217(17); 228(2); 228(4); 305; 504; 529; 531; 532; 537; 539; 540; 542-557; 559 and 560, Second Engrossed Substitute House Bill No. 2080 is approved.

Respectfully submitted,



Mike Lowry
Governor

ESHB 2090

C 364 L 95

Revising provisions relating to taxation of gasohol.

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, R. Fisher, Mitchell, Scott, Robertson, Hatfield, Skinner, Tokuda, Buck, Elliot, Ogden, Cairnes, Romero, Brown, Quall, Chopp, Patterson, Hankins and Blanton).

House Committee on Transportation

Background: ESHB 2326, enacted during the 1994 session, repealed a tax exemption and credit given to distributors that sold gasohol made with alcohol produced by small manufacturers. When enacted in 1980, the exemption and credit were intended to benefit in-state alcohol producers, including a new plant in Eastern Washington, having an estimated fiscal impact of approximately \$5 million for the 1993-95 biennium. However, of the 17 producers taking advantage of the tax break, only three are located in Washington, while producers from El Salvador, Costa Rica and Jamaica have been the primary beneficiaries. In fiscal year 1994 alone, the revenue loss to the state was over \$21 million.

In October of 1994, Western Petroleum Importers filed a lawsuit against the state seeking an injunction to restore the gasohol tax exemption and credit. The suit is based on provisions of Initiative 601.

On March 28, 1995, a trial court judge in King County ruled in favor of Western Petroleum Importers in their challenge to ESHB 2326. The decision was unexpected and the state is requesting expedited review by the state Supreme Court.

The judge also issued an injunction preventing the Department of Licensing from collecting the motor fuel tax until ESHB 2326 is approved by the voters in November. However, there is no mechanism in place that would allow the state to continue collecting the tax and hold the funds in abeyance until the matter is resolved by the Supreme Court or the voters. In the normal course of business, this inability to collect the tax would cost the state about \$30 million per year in lost revenue, with over 90 percent of the tax break benefiting producers in El Salvador, Costa Rica, Jamaica and other out-of-state companies.

Summary: Beginning July 1, 1995, a refund system is established that will allow the state to collect the motor fuel taxes on gasohol. The money will be held in the gasohol exemption holding account for possible refund to gasohol distributors, depending on the final determination in the lawsuit over ESHB 2326.

For motor fuel taxes paid by distributors under this refund system, refunds may not be issued unless an appellate court upholds the invalidation of ESHB 2326, and the voters reject that measure at the November general election.

Gasohol distributors will have no right to a refund of taxes collected under this system unless they actually comply with the law and remit the taxes.

If the voters ratify ESHB 2326, no refunds will be provided for taxes collected by the state as a result of ESHB 2326, which took effect May 1, 1994.

If the court of appeals or the Supreme Court upholds the tax exemption repeal in ESHB 2326, the refund system will be null and void, as it would not be necessary to refund taxes that were properly imposed under that law.

A severability clause allows a court to invalidate a particular section of the bill without affecting the remaining provisions establishing a refund system.

Votes on Final Passage:

House	94	1
Senate	48	0

Effective: May 16, 1995
July 1, 1995 (Section 3)

HB 2110

C 10 L 95 E2

Authorizing the imposition of taxes by counties for correctional facilities and juvenile detention facilities.

By Representatives Campbell, Smith, Talcott, Morris, Conway, Huff, Costa, Scott, Casada, McMahan, Brumsickle and Ebersole.

Background: The retail sales tax is imposed on sales of most articles of tangible personal property and some services. The sales tax is paid by the purchaser and collected by the seller. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location.

The use tax is imposed on the use of articles of tangible personal property when the sale of the property was not subject to sales tax. The use tax applies when property is acquired from out of state. It also applies when property is acquired from an in-state person who does not collect sales tax. Use tax is equal to the sales tax rate multiplied by the value of the property used. Sales and use taxes are often described as a single tax.

Summary: The legislative authority of a county with a population less than one million may impose an additional sales and use tax of 0.1 percent, if approved by the county voters. Revenue from this tax may be used solely for costs associated with constructing and operating juvenile detention facilities and jails.

Counties are authorized to develop joint ventures to collocate juvenile detention facilities and to collocate jails.

Votes on Final Passage:

First Special Session

House 95 2

Second Special Session

House 90 2

House 91 2 (House reconsidered)

Senate 36 11

Effective: August 24, 1995

EHJM 4004

Petitioning Congress to introduce legislation on pesticide use for minor crops.

By Representatives Chandler, Lisk, Schoesler, Mulliken, Robertson, Honeyford, Mastin, Clements, Chappell, Delvin, McMorris, Koster, Boldt and Foreman.

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & Agricultural Trade & Development

Background: The registration and use of pesticides is regulated at the national level by the Federal Insecticide,

Fungicide, and Rodenticide Act, or FIFRA. In general, a pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency (EPA). In November 1984, the studies and data required to be submitted in support of the registration of a pesticide were expanded. With the 1988 amendments to FIFRA, Congress required, with certain limited exceptions, that pesticides originally registered before November 1, 1984, be reregistered under the data requirements which apply to pesticides registered after that date.

A representative of the state's Department of Agriculture has indicated that

at the beginning of reregistration in 1988, approximately 44,000 pesticide products representing 611 active ingredients were registered for use; in October 1991, the number of registered pesticide products was reduced to approximately 20,000, representing 405 active ingredients.

In general, pesticides are considered to be for "minor" crops or "minor" uses in the context of the federal pesticide registration process if the acreage on which the pesticides would potentially be used is minor on a national scale. Crops such as apples which are important to this state's agricultural economy are considered to be minor crops in this context.

With certain exceptions, FIFRA protects proprietary data submitted by an applicant for the registration of a pesticide for 15 years if the data were submitted during the period December 1969 through September 1978. It protects the data for 10 years if the data were submitted after September 1978.

Summary: Congress is requested to review the effects of the 1988 amendments to FIFRA and to vote on legislation which considers: extending registrants' exclusive data rights by 10 years; establishing deadlines for the EPA to act on minor crop registrations; extending the time for generating and submitting data; and temporarily extending registration deadlines for uses unsupported by registrants so that persons other than the registrants may comply with the registration requirements.

Votes on Final Passage:

House 93 2

Senate 43 1

HJM 4008

Requesting modification of the federal Marine Mammal Protection Act.

By Representatives Basich, Pennington, Johnson, Quall, Kremen, Fuhrman, Chappell, Hatfield, Backlund and Sheldon.

House Committee on Natural Resources
Senate Committee on Natural Resources

Background: Congress enacted the Marine Mammal Protection Act in 1972 to conserve and protect marine mammal species. The primary objective identified in this legislation is to maintain the health and stability of the marine ecosystem. When consistent with this primary objective, the goal is to obtain optimum sustainable populations of marine mammal species, keeping in mind the carrying capacity of the habitat.

The Marine Mammal Protection Act provides protection for some 29 species of marine mammals in Washington's waters, including whales, porpoises, and sea otters. Seals and sea lions are also protected by the act. Some marine mammal species, notably the Pacific harbor seal and the California sea lion, have shown marked population increases since the 1970's. As the abundance of these seals and sea lions has increased, so has their interaction with commercial fishers. While seals and sea lions feed on a number of different types of fish, they also feed on salmon and steelhead. This causes particular concern in the face of dwindling anadromous fish stocks and the listing of fish stocks as threatened or endangered.

The federal act was amended in 1994. The amendments included new provisions to govern interactions between protected mammals and commercial fisheries. The amendments also established a process for seeking permission for the lethal removal of seals or sea lions under certain conditions. The state Department of Fish and Wildlife recently used this new procedure to request permission to remove lethally some sea lions at the Ballard Locks.

Summary: Seals and sea lions are identified as active predators on anadromous fish such as salmon and steelhead. In order to allow certain salmon and steelhead populations to recover and be sustained at viable levels, the memorial finds that more flexibility is needed to manage seals and sea lions in identifiable areas where they cause unacceptable mortality levels in specific fish runs. The memorial asks Congress to amend the Marine Mammal Protection Act to allow for a more common-sense approach to managing predacious seals and sea lions, including provisions for reasonable, balanced, and prudent population levels and provisions for active management of

abundant populations including lethal removal when and where necessary.

Votes on Final Passage:

House	90	8
Senate	43	5

HJM 4028

Urging passage of legislation authorizing the National Highway System.

By Representatives K. Schmidt, R. Fisher, Hatfield, Cairnes, Hankins, Ogden, Johnson, D. Schmidt and Blanton.

House Committee on Transportation
Senate Committee on Transportation

Background: The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) restructured previous federal highway aid programs into two basic programs: the National Highway System (NHS) and the Interstate System, which is a component of the NHS. A separate federal funding program was created for NHS. The specific roadways to be contained within the NHS were not identified with the passage of ISTEA. Until identified by Congress, the NHS consists of highways classified as principal arterials.

Congress has until September 30, 1995, to designate the NHS by law. If it fails to do so, no money may be expended from the new NHS funding category, resulting in a loss of about \$60 million of federal revenue a year to Washington.

The United States Department of Transportation Secretary, in cooperation with states, cities, counties, metropolitan planning organizations and ports, submitted to Congress the proposed NHS last year as required by law. Congress failed to adopt the proposal.

The proposed NHS is to consist of not more than 165,000 miles of major roads in the United States. Included in the system will be all interstate routes, a large percentage of urban and rural principal arterials, the defense strategic highway network, and strategic highway connections.

Summary: Congress is urged to pass legislation approving the National Highway System before September 30, 1995.

Votes on Final Passage:

House	97	0
Senate	45	0

HJM 4029

Urging Congress to use transportation funds for transportation purposes.

By Representatives K. Schmidt, R. Fisher, Hatfield, Cairnes, Hankins, D. Schmidt, Robertson, Brown, Ogden, Johnson, Elliot, Radcliff, Backlund, Benton, Sherstad and Blanton.

House Committee on Transportation
Senate Committee on Transportation

Background: The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) provides authorizations for federal aid to highway and transit programs for the six-year period from October 1, 1991 through September 30, 1997. To support the authorizations, federal highway user fees have been imposed which are deposited into the federal highway trust fund (HTF).

These user fees include motor fuels, tires, truck and trailer sales, and heavy vehicle use (annual gross weight fee). Most of the revenue is generated from the fuel tax. The basic federal fuel tax is 18.4 cents per gallon on gasoline and 24.4 cents per gallon on diesel fuel. Of the fuel taxes collected, 1.5 cents is dedicated to the mass transit account and 6.8 cents is provided to the general fund for federal budget deficit reduction. Under existing federal law, 2.5 cents of the 6.8 cent-general fund deficit reduction tax reverts to the HTF on October 1, 1995.

When Congress authorizes transportation spending bills every four to six years, it approves contract authority which can be used to withdraw funds from the HTF to pay for eligible capital projects.

An appropriation must be made each year from the HTF to pay for the capital projects. Included in the appropriations bill are limits to the obligations the HTF is allowed to incur. This technique is referred to as an obligation limitation or ceiling. By making the obligation limitation lower than the amount authorized for expenditure, surpluses begin to accumulate in the HTF. Under the Unified Federal Budget, the surplus in the HTF is identified as a reduction in federal general fund deficit spending.

Current national infrastructure needs for highways and bridges have been set at \$300 billion, while at the same time the HTF has a cash balance of over \$20 billion. The same procedure and issue exists for the federal airport and airway trust fund (A&ATF), which has a cash balance of \$12 billion.

Summary: Congress is urged to fully fund ISTEA highway and transit authorizations, eliminate obligation limitations, and remove the HTF and the A&ATF from the Unified Federal Budget.

Votes on Final Passage:

House	97	0
Senate	45	0

2ESSB 5000

C 13 L 95 E2

Reducing property taxes.

By Senate Committee on Ways & Means (originally sponsored by Senators Loveland, Snyder, Wojahn, Sheldon, Gaspard, Franklin, Haugen, Rasmussen, Quigley, Owen, McAuliffe, Winsley, McCaslin, Drew, Morton, Prentice, Bauer, Spanel, Hale and Deccio).

Senate Committee on Ways & Means

Background: 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, or \$10 per \$1,000 of assessed value. Of this, the state levy is limited to \$3.60 per \$1,000 of assessed value, equalized to market value, for the support of the common schools.

The state property tax is also limited by the 106 percent levy limit. The 106 percent levy limit requires reduction of property tax rates as necessary to limit the total amount of property taxes received by a taxing district. The limit for each year is the sum of (a) 106 percent of the highest amount of property taxes levied in the three most recent years, plus (b) an amount equal to last year's levy rate multiplied by the value of new construction.

Summary: The state property tax for collection in 1996 is reduced by 4.7187 percent, which is \$54.4 million. Other taxing district levies are prevented from being higher as a result of the lower state tax levy.

For purposes of the 106 percent limit, state levies after 1996 are set at the amount that would otherwise be allowed if the state levy for 1996 had been set without the reduction under this bill.

The reduction in this bill is in addition to any other reduction enacted for the 1996 session.

Votes on Final Passage:

Senate 27 22

Second Special Session

Senate 45 2

House 88 6

House 90 4 (House reconsidered)

Effective: August 24, 1995

2ESSB 5001

C 8 L 95 E1

Affecting the property taxation of senior citizens and persons retired because of physical disabilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Sheldon, Snyder, Haugen, Winsley, Quigley, Franklin, Rasmussen and Prentice).

Senate Committee on Ways & Means

Background: 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 1 of the application year.

To be eligible for an exemption, the disposable income of the applicant's household must fall below \$26,000 a year. A partial property tax exemption is provided according to the following table:

<u>Income</u>	<u>Exemption</u>
\$18,001 to \$26,000	All excess levies
\$15,001 to \$18,000	All excess levies
	Regular levy on greater of \$30,000 or 30% of valuation (\$50,000 valuation maximum)
\$15,000 or less	All excess levies
	Regular levy on greater of \$34,000 or 50% of valuation

Disposable income is defined as the sum of federally defined adjusted gross income and the following, if not already included: Capital gains, deductions for loss, depreciation, pensions and annuities, military pay and benefits, veterans benefits, Social Security and federal railroad retirement benefits, dividends, and interest income. Payments for the care of either spouse received in the home or in a nursing home are deducted in determining disposable income.

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.

In 1994, the Legislature enacted Engrossed House Bill 2670 (C 8 L 94 E1), but its effective date was contingent upon funding of the administrative costs. The funding was not provided in 1994. Several changes were made to the senior citizen exemption program by EHB 2670:

- The \$26,000 annual income threshold for eligibility was increased to \$28,000.
- For seniors and disabled persons with disposable annual incomes of \$28,000 or less, the taxable value of

2SSB 5003

their residences was limited to the lesser of 1) the market value of the residence less the otherwise allowable exemption, or 2) last year's taxable value plus the percentage change used by the federal government in adjusting social security benefits.

- Income from the application year, rather than the year preceding the application, is used when applying for property tax relief.
- An applicant for tax relief must occupy the residence at the time of filing for tax relief.

Summary: The following changes are made to the senior citizen and disabled person property tax exemption program effective July 1, 1995, for taxes payable in 1996:

(1) All changes made to the senior citizen and disabled person property tax exemption program by EHB 2670, other than the valuation limit.

(2) The valuation limit is simplified. The valuation of the residence is frozen at the market value of the residence on the later of January 1, 1995, or January 1 of the year the person first qualified for the program, but the valuation cannot exceed the market value on January 1 of the assessment year. Failure to qualify only for one year because of high income does not change this valuation upon requalification. The valuation does not transfer to a replacement residence. Subsequent improvements to the residence are added at market value. Any exemption to which the person is entitled is applied to this valuation.

(3) Payments for prescription drugs are deducted in determining disposable income.

Votes on Final Passage:

Senate 40 8

First Special Session

Senate 40 6

House 97 0

Effective: July 1, 1995

2SSB 5003

C 365 L 95

Providing criteria to be used in determining whether a fund or account receives interest earnings.

By Senate Committee on Ways & Means (originally sponsored by Senators Rasmussen, Newhouse, Loveland, Sellar, Snyder, Hochstatter, Prince, Bauer, Morton, Haugen, Winsley and A. Anderson).

Senate Committee on Agriculture & Agricultural Trade & Development

Senate Committee on Ways & Means

House Committee on Agriculture & Ecology

Background: The State Treasurer's office manages over 300 funds. Prior to 1991, there was not a consistent policy as to where the interest from various funds was deposited.

At that time, interest for many of the funds was deposited in accordance with the statute that created that fund.

In 1991, significant changes were made to the funds interest earnings statutes. The rationale for the 1991 legislation was that the disposition of interest income earned by these various funds varied considerably, and that distributions of the earnings should be based upon some general criteria. Under the 1991 legislation, three categories of funds were created: (a) those funds whose earnings are credited to the general fund; (b) those funds for which 100 percent of the earnings are credited back to the fund; and (c) those funds for which 80 percent of the earnings are credited back to the fund. In this 1991 legislation, the interest earned on various funds was to be deposited in the state general fund.

In 1993, various fee funded agricultural programs were required to pay their prorated share of general administrative costs in the Department of Agriculture.

Summary: The agricultural local fund, the grain inspection revolving fund, and the fair fund are included within the list of funds that receive their prorated share of interest earnings. The rural rehabilitation account, which currently receives its interest earnings due to existing legal provisions, is statutorily recognized to receive its interest earnings.

Votes on Final Passage:

Senate 47 0

House 96 0 (House amended)

Senate (Senate refused to concur)

House 95 1 (House receded)

House 96 0 (House reconsidered)

Effective: June 1, 1995

ESB 5011

C 366 L 95

Concerning specialized forest product permits.

By Senator Owen.

Senate Committee on Natural Resources

House Committee on Natural Resources

Background: Specialized forest products harvest in the state of Washington is a major industry. It includes products such as floral greens, holiday greens, wild edible plants, medicinal plants, native landscaping plants, plants used for mitigation projects to replace wetlands, and wild mushrooms.

There has been concern about possible over-harvesting of some plants, and with the problem of trespass in the forests. There is not adequate information available to assess the question of over-harvest at the present time, but that issue can be addressed in the future with adequate reporting methods. Transactions involving Christmas

trees, cedar products or cedar salvage are covered by different provisions of current law.

Summary: The specialized forest products statute is updated.

Mosses, bear grass and scotch broom are added as special forest products, and pine cones and seeds are exempt. The permit system requires that each permit be separately numbered and issued by consecutive numbers. The person applying for a permit must show a picture identification. The sheriff's office or its agent verifies the identification when the permit is validated. The permit or true copy must be carried by the picker and available for inspection at all times. All persons harvesting specialized forest products are required to have the permit if they are picking commercial quantities of specialized forest products.

Buyers of specialized forest products may not purchase any product without recording the permit number, the permittee's name, the type of forest product purchased, and the amount of the product purchased. The buyer must keep a record of this information for a period of one year. The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products and the seller's permit number on the bill of sale. Retail sales are exempt from the requirements for buyers.

County sheriffs may contract to allow other entities such as the United States Forest Service and the Department of Natural Resources to issue the specialized forest product permits. Records collected concerning forest products may be available to colleges and universities for the purpose of research.

The Asian-American Affairs Commission, the Commission on Hispanic Affairs, and the Department of Natural Resources are encouraged to promote an understanding of this act among interested minority groups.

A severability clause is included.

Votes on Final Passage:

Senate	48	0	
House	89	7	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	82	8
Senate	46	0

Effective: July 23, 1995

SSB 5012

C 228 L 95

Revising the fee for transfer of fishery licenses.

By Senate Committee on Natural Resources (originally sponsored by Senator Snyder).

Senate Committee on Natural Resources
House Committee on Natural Resources
House Committee on Finance

Background: Transfer of commercial fishing licenses was made subject to a transfer fee of three and one-half times the resident renewal fee by legislation in 1993.

Commercial fishers who transfer their fishing licenses do not wish to be charged a transfer fee that is greater than the amount necessary to cover administrative costs.

Summary: The commercial salmon fishing license transfer fee and the salmon charter boat license fee are reduced from three and one-half times the resident renewal fee to \$50.

Votes on Final Passage:

Senate	47	1	
House	91	5	(House amended)
Senate	40	0	(Senate concurred)

Effective: July 23, 1995

SSB 5017

C 227 L 95

Establishing commercial fishery license fee and renewal provisions for years with no fishing season.

By Senate Committee on Natural Resources (originally sponsored by Senator Snyder).

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: The Department of Fish and Wildlife's director does not have clear authority to refuse to collect or to refund license fees for a commercial fishery if the department does not allow a fishing season. With the moratoriums in effect for several commercial fisheries, it is necessary to provide that the failure to fish for a year will not invalidate a person's ability to receive licenses in subsequent years.

Summary: If the Department of Fish and Wildlife does not allow a commercial fishing season during a license year, the department may either waive the license fee for a commercial fishery or may refund the commercial fishery license fee that has been paid.

If a person with a commercial license does not fulfill poundage or landing requirements during the license year because the department does not allow a fishing season, the future renewal of a person's commercial fish license is not affected.

ESB 5019

Votes on Final Passage:

Senate	48	1	
House	96	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

ESB 5019 PARTIAL VETO C 190 L 95

Relating to industrial developments.

By Senator Snyder.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Counties planning under the Growth Management Act (GMA) must designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can only occur if it is not urban in nature. GMA also states that urban growth areas should be located: (1) in areas already characterized by urban growth that have existing public facility and service capacities to serve such development; and (2) in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Further, urban government services should be provided by cities, and urban government services should not be provided in rural areas.

One of the GMA planning goals, adopted to guide the development and adoption of comprehensive plans and development regulations, is that of economic development. It seeks to encourage economic development throughout the state that is consistent with comprehensive plans, promote economic opportunity, and encourage growth in areas experiencing insufficient economic growth.

Questions have arisen as to whether the GMA allows industrial developments outside urban growth areas.

Summary: Counties planning under the GMA may establish, in consultation with cities, a process for authorizing the siting of major industrial developments outside urban growth areas. The siting process must be consistent with countywide planning policies. "Major industrial development" is defined as a master planned location for a specific manufacturing, industrial, or commercial business that: (a) requires a parcel of land devoid of critical areas, and so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near land upon which it is dependent. A major industrial

development cannot be for the purpose of commercial shopping development or multi-tenant office parks.

A major industrial development may be approved outside an urban growth area if certain criteria are met. Some of these criteria are: provision of new infrastructure and/or establishment of impact fees; transit planning; buffers; environmental protection; assurance that urban growth will not occur in nonurban areas; mitigation of adverse impacts on natural resource lands; consistency with development regulations for protection of critical areas; an inventory of developable land has been conducted; and findings that land is unavailable in the urban growth area.

Final approval must be considered an adopted amendment to the comprehensive plan designating the site as an urban growth area. The adopted amendment is not considered an annual amendment to the comprehensive plan and may be considered at any time.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	39	0	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: The emergency clause was eliminated. The Governor stated that the collaborative process established in the bill will take many months to complete.

VETO MESSAGE ON SB 5019

May 1, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Engrossed Senate Bill No. 5019 entitled:

"AN ACT Relating to industrial developments;"

This legislation establishes a careful and appropriate process to allow counties to site large industrial facilities and to locate natural resource dependent facilities outside of urban growth areas. The process will be advanced by a county in collaboration with its cities and requires an inventory of available land and a finding that there is not sufficient land available for such development. It provides for infrastructure and environmental protection and establishes safeguards to prevent these developments from contributing to sprawl.

This bill includes an emergency clause in section 2. This section is ill advised when establishing a process of this nature. The process established will take many months to complete and will require the collaborative efforts of counties and cities. Preventing this bill from being subject to a referendum under Article II, section 1(b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

With the exception of section 2, Engrossed Senate Bill No. 5019 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5022

C 16 L 95

Allowing United States military dependents' identification as identification cards for liquor purchases.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Fairley and Winsley).

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Current law requires that for the purchase of alcohol, purchasers must provide one of five acceptable types of officially issued identification as proof of age: (1) Liquor control authority card of identification of Canada; (2) driver license, instruction permit or ID card of any state; (3) U.S. active duty military identification; (4) passport; (5) Merchant Marine ID card issued by U.S. Coast Guard.

No other forms of identification as proof of age are legally allowable for the purchase of alcohol. Nonactive military personnel including reservists, retired personnel and military dependents are prohibited from using their government-issued identification for the purchase of alcohol.

Summary: United States armed forces identification cards issued to active duty personnel, reservists, retired personnel and military dependents are allowed as proof of age for the purchase of alcohol.

Votes on Final Passage:

Senate	44	0
House	95	0

Effective: July 23, 1995

SB 5027

C 17 L 95

Extending the period of time within which a prosecution for homicide by abuse may be commenced.

By Senators Smith, McCaslin, Rasmussen, Prentice, Kohl and Schow.

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

Background: Under current law there is no statute of limitations for murder in the first or second degree. In 1987, the Legislature created the new crime of homicide by abuse to address those deaths of children, persons with developmental disabilities, and dependent adults caused by a pattern of assault or torture. Homicide by abuse is a more serious crime on the Sentencing Reform Act sentencing grid than murder in the second degree. However, because there is no statute of limitations specified for homicide by abuse, it is subject to a three-year statute of limitations. It is felt that there is no justification for someone being allowed to escape punishment after three years for the homicide by abuse of a child, when the same person still could be punished after an unlimited time for the second degree murder of an adult.

Summary: Homicide by abuse is added to the list of crimes that can be tried at any time after their commission.

Votes on Final Passage:

Senate	47	0
House	94	2

Effective: July 23, 1995

SB 5029

C 191 L 95

Modifying membership and duties of children's services advisory committee.

By Senators Hargrove, Fraser and Winsley; by request of Department of Social and Health Services.

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: The Children's Services Advisory Committee advises the Division of Children and Family Services on various matters, including day care services. Currently, one third of the advisory committee membership must be child-care providers, and at least one member must represent the adoption community. The Division of Children and Family Services no longer regulates day-care facilities.

In 1988, the Child Care Coordinating Committee was created. The committee provides coordination between state agencies responsible for child care and early childhood education services. Responsibility for the oversight

SB 5038

of day-care facilities has been transferred to the Child Care Coordinating Committee. The office of Child Care Policy was created to staff and assist the Child Care Coordinating Committee.

Summary: The Children's Services Advisory Committee no longer advises the Division of Children and Family Services on matters specifically pertaining to day care. The requirement that one-third of the advisory committee be child-care providers is removed.

Votes on Final Passage:

Senate	44	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 23, 1995

SB 5038

C 2 L 95

Extending time periods for certain health care reform activities.

By Senator Quigley.

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

Background: Under current law, after July 1, 1995, the Insurance Commissioner must certify that any insuring entity who wishes to offer health insurance meets a new set of requirements known as certified health plan standards. After that date, no one may provide health insurance without first being so certified. In addition, after July 1, 1995, no insuring entity, including any certified health plan, may offer health insurance that is less than the uniform benefits package. After July 1, 1995, the state's Basic Health Plan must contract with certified health plans.

The uniform benefits package is a set of health services generally described in state law as being the benefit and actuarial equivalent of the Basic Health Plan with several additions. State law requires that the Health Services Commission submit draft rules to the Legislature by December 1, 1994, which contain a specific schedule of services to be included in the uniform benefits package.

The Legislature may disapprove of the uniform benefits package by an act of law at any time prior to the 30th day of the current legislative session. If disapproval occurs, the commission must resubmit a modified benefits package within 15 days of the disapproval. If the Legislature does not disapprove or modify the package by an act of law by the end of the regular session, the package is approved.

Summary: The date by which health insurance entities must be certified as certified health plans is moved from July 1, 1995 to December 31, 1995.

The requirement that the Legislature must disapprove by an act of law the Health Services Commission's draft rules describing the uniform benefits package is moved

from the 30th day of this legislative session to the last day of the regular session.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: February 3, 1995

SB 5039

C 156 L 95

Clarifying the elements of the crime of luring.

By Senator Fairley.

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

Background: The crime of luring is committed if a stranger orders or lures a minor or developmentally disabled person into a structure or a motor vehicle without the consent of the parent or guardian. Since enactment of this statute, incidents have occurred which involved luring a victim into an area obscured from public view but that would not constitute a structure. It has been suggested that the statute should be amended to cover these situations.

Summary: The crime of luring is redefined to include luring a minor or a person with a developmental disability into any area that is obscured from or inaccessible to the public.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: July 23, 1995

SSB 5040

C 37 L 95

Prescribing the selection process for district court districting committees.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen and Winsley).

Senate Committee on Government Operations
House Committee on Government Operations

Background: Counties operate district courts which, together with municipal courts, serve as courts of limited jurisdiction. These courts may conduct trials for misdemeanors, traffic offenses, "small claims," and other civil claims of limited monetary value. When population and workload require, counties may establish two or more geographical districts for district courts. The establishment and revision of these district boundaries is done by a districting committee composed of one superior court judge, the prosecuting attorney or deputy, a practicing

lawyer, a judge of a court of limited jurisdiction, and each mayor or his or her representative from every city with a population of 3,000 or more. If there is a city in the county with a population of 10,000 or more, a person is selected by the president of the Association of Washington Cities to represent all cities and towns with a population of less than 3,000. If there is no city in the county with a population of 10,000 or more, the mayor or his or her representative from each city and town, regardless of population, shall be a member of the committee.

In those cases where a districting committee is to be formed in a county which has a city with a population of 10,000 or more, the president of the Association of Washington Cities may not be sufficiently informed or may have personal conflicts that make it inappropriate for her or him to make this appointment.

Summary: When forming a county district court redistricting committee in a county in which there is a city with a population of 10,000 or more, a representative of cities and towns with populations of less than 3,000 must be selected by a majority vote of the mayors of those cities and towns.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 23, 1995

SB 5042

C 21 L 95

Directing cities and towns to deliver copies of new ordinances to the municipal research council.

By Senators Winsley and Haugen.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Each code city must provide the Association of Washington Cities with three copies of all ordinances of general application. This has given rise to an argument that if the ordinance is not provided, it is invalid. In addition, it is suggested that these ordinances should be sent to the Municipal Research Council rather than the Association of Washington Cities, which does not serve as a collection agency for city ordinances.

Summary: The clerk of every city or town is directed, rather than mandated, to provide to the Municipal Research Council a copy of each of its regulatory ordinances promptly after their adoption.

The provision that each code city provide three copies of each of its ordinances of general application to the Association of Washington Cities is eliminated.

Votes on Final Passage:

Senate	48	0
House	96	1

Effective: July 23, 1995

SB 5043

C 71 L 95

Revising procedures for adoption of codes and statutes by reference by code cities.

By Senators Winsley and Haugen.

Senate Committee on Government Operations
House Committee on Government Operations

Background: There is a basic adoption-by-reference statute for all cities and towns. This statute requires that at least one copy of any code or statute which an ordinance proposes to adopt by reference be filed in the office of city or town clerk.

The adoption-by-reference statute for code cities also requires that a copy of the code or statute adopted by reference be authenticated and recorded by the clerk, along with the adopting ordinance.

Summary: The additional requirements of authentication and recordation of the code or statute which the ordinance incorporates by reference are removed from the code cities' adoption-by-reference statute.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SB 5046

C 22 L 95

Revising filing requirements for interlocal agreements.

By Senator Haugen.

Senate Committee on Government Operations
House Committee on Government Operations

Background: All agreements made pursuant to the Interlocal Cooperation Act must be filed with the county auditor and with the Secretary of State. If an agreement relates to land use planning or building codes, it must also be submitted to the Department of Community, Trade, and Economic Development. Currently, neither of these requirements are followed, and questions have been raised as to the legality of the interlocal agreements.

Summary: The requirements to file interlocal agreements with the Secretary of State and the Department of

SB 5052

Community, Trade, and Economic Development are eliminated.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: July 23, 1995

SB 5052

C 23 L 95

Deleting obsolete provisions relating to the printing and duplicating center.

By Senators Winsley and Haugen.

Senate Committee on Government Operations
House Committee on Government Operations

Background: In 1977 the Legislature abolished the state Printing and Duplicating Committee, which had oversight of printing and duplicating activities in the Department of General Administration, the Office of Financial Management and the office of the State Printer. The responsibilities of this committee were temporarily consolidated as a department within the Department of General Administration, and named the "printing and duplicating center." The 1977 legislation required the center to submit recommendations to the Legislature by January 31, 1981 regarding the "functional disposition of the center's responsibilities." The statute also provided that the center would cease to exist on June 30, 1981. The center has ceased to exist, and the statutory provisions should be repealed.

Summary: The statutory provisions establishing the printing and duplicating center in the Department of General Administration and providing for its termination on June 30, 1981 are repealed.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 23, 1995

SB 5060

C 157 L 95

Regulating publication of legal notices by political subdivisions.

By Senators Haugen and Winsley.

Senate Committee on Government Operations
House Committee on Government Operations

Background: In the general statute regarding publication of ordinances, counties do not have the authority granted to

cities and towns to publish debt ordinances by title instead of by section-by-section summary.

Cities and towns all have authority in the statutes which create and empower them individually to publish summaries of ordinances and titles of debt ordinances. These statutes have technical requirements at variance from those of the general statute.

Summary: Counties are given the ability to publish titles of debt ordinances rather than section-by-section summaries.

Cities and towns are removed from the general statute regarding publication of ordinances.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 23, 1995

E2SSB 5064

PARTIAL VETO

C 367 L 95

Revising the regional fisheries enhancement program.

By Senate Committee on Ways & Means (originally sponsored by Senators Owen, Drew and Oke).

Senate Committee on Natural Resources
Senate Committee on Ways & Means
House Committee on Natural Resources
House Committee on Appropriations

Background: Regional fisheries enhancement groups were authorized by statute in 1989 for the purpose of encouraging organized volunteer efforts to improve anadromous fish populations. The regional groups desire additional funding, improved technical assistance, greater coordination with the Department of Fish and Wildlife, and an opportunity to generate funds through the sale of surplus salmon and salmon eggs.

Summary: Regional fisheries enhancement groups are assisted in the following manner: the Department of Fish and Wildlife's habitat division works with regional groups, cities and counties to remove human-caused impediments to anadromous fish passage; the Department of Transportation works in partnership with the regional groups to eliminate fish passage barriers within budgetary constraints; regional group habitat and fish passage projects are exempt from the requirements of the shoreline permit process; the advisory board is directed to develop a training and technical services plan and to implement the plan; the Department of Fish and Wildlife develops rules for a program of surplus salmon egg and carcass sales that are operated by regional enhancement groups and funds group projects. All proceeds from the sale of surplus salmon eggs and salmon carcasses by general funded

Department of Fish and Wildlife hatcheries are placed in the regional fisheries enhancement group account.

Votes on Final Passage:

Senate	46	2	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: May 16, 1995

Partial Veto Summary: Regional group habitat and fish passage projects are not exempt from the shoreline permit process. The sale of eggs and carcasses from fish that return to group projects is not authorized.

VETO MESSAGE ON SB 5064-S2

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4, 8, and 9, Engrossed Second Substitute Senate Bill No. 5064 entitled:

“AN ACT Relating to regional fisheries enhancement program;”

Engrossed Second Substitute Senate Bill No. 5064 makes changes to funding and assistance provided to regional fisheries enhancement groups. It will provide additional needed revenue to these groups by transferring funds from the sale of eggs and carcasses from state operated hatcheries to the regional enhancement group account.

Section 4 exempts regional fisheries enhancement groups and fish and wildlife cooperative fish habitat and fish passage projects from the state Shorelines Management Act. This language is substantially equivalent to that contained in Substitute Senate Bill No. 5155. Because Substitute Senate Bill No. 5155 provided this same exemption to all public groups, including regional fisheries enhancement groups, this section is unnecessary.

Section 8 of Engrossed Second Substitute Senate Bill No. 5064 requires the revenue from the sales of eggs and carcasses authorized under section 9 to be deposited into the regional fisheries enhancement group account. Section 9 directs the Department of Fish and Wildlife to establish a program that will allow each of the twelve regional fisheries enhancement groups to sell eggs and carcasses from fish returning to their group project. The revenue from these sales is deposited into the regional fisheries enhancement group account for reallocation to the group or groups sponsoring the project.

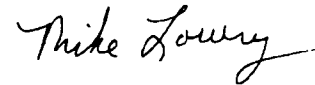
The Department of Fish and Wildlife is authorized under present law to sell eggs and carcasses from group projects. The revenue from these sales goes to the regional fisheries enhancement group account for reallocation to the group or groups sponsoring the project. Allowing each of the groups to individually undertake sales would make accountability more difficult and potentially jeopardize the department's present ability to dispose of carcasses from state owned facilities.

I am directing the Department of Fish and Wildlife to work with the regional fisheries enhancement groups to assure an appropriate level of income from the sales of eggs and carcasses and to assure distribution of those funds to these groups.

For these reasons, I have vetoed sections 4, 8, and 9 of Engrossed Second Substitute Senate Bill No. 5064.

With the exception of sections 4, 8, and 9, Engrossed Second Substitute Senate Bill No. 5064 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5067

C 24 L 95

Simplifying distribution and pricing of state legal publications.

By Senate Committee on Government Operations (originally sponsored by Senators Snyder and Sellar).

Senate Committee on Government Operations
House Committee on Government Operations

Background: The receipt, distribution, sale and exchange of session laws, legislative journals, Supreme Court and appeals reports are detailed in statute. Many governmental officials receive copies of these documents automatically. The prices charged for the sale of surplus copies are set at specific dollar amounts. It is the duty of the State Law Librarian to receive, distribute, sell and exchange all of these documents, except the temporary edition of the session laws. The temporary edition of the session laws are distributed and sold by the Statute Law Committee.

Summary: Most of the State Law Librarians's duties pertaining to the receipt, distribution, sale and exchange of public documents are shifted to the Statute Law Committee, the Chief Clerk of the House of Representatives and the Secretary of the Senate. The exceptions are the Supreme Court reports and the appeals court reports, which are purchased for the use of the state. These continue to be delivered to the State Law Librarian.

The temporary and permanent editions of the session laws are distributed only at the request of legislators and other governmental officials, agencies and offices.

The charge for these documents is set by the Statute Law Committee, the Chief Clerk of the House of Representatives and the Secretary of the Senate in order to recover costs.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: July 23, 1995

SB 5075

C 115 L 95

Appropriating funds for emergency construction of Crown Hill elementary school.

By Senators Owen, Sheldon and Oke.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Crown Hill School in the Bremerton School District was approved for state matching funds by the State Board of Education prior to the 1993-95 biennium. The 1993-95 capital budget provided sufficient appropriation authority to fund school construction projects on the state prioritized list of projects up to and beyond Crown Hill's place on the list. Subsequent to the initial 1993-95 budget, and again following the 1994 supplemental budget, downward revisions to the timber revenue forecast by the Department of Natural Resources have forced the State Board of Education to postpone release of school construction funds. At the current level of funding, the Crown Hill project will not receive funding in this biennium.

On July 13, 1993, prior to the revenue forecast adjustments, Crown Hill School was partially destroyed by fire. In replanning the project, the school district decided to raze the entire building and rebuild with resources from the anticipated state funds, and from the proceeds of an insurance settlement. The lack of state resources following the sequence of events has left the school unfinished and students housed in temporary facilities.

In addition to the Crown Hill project, the Bremerton School District has three other projects on the state prioritization list that have been approved for state funding. These projects have been completed with local funds, and the district is waiting for the state to provide sufficient resources to compensate the district for the state share of the projects.

Summary: \$5,520,000 is appropriated to the Department of Community, Trade, and Economic Development to fund emergency school construction at Crown Hill Elementary School in the Bremerton School District. When the State Board of Education releases funds any time after the effective date of this act, the appropriation in this act must be repaid to the state General Fund.

Votes on Final Passage:

Senate	46	0
House	93	2

Effective: April 20, 1995

SB 5078

C 72 L 95

Concerning premium finance agreements.

By Senators Fraser, Prentice, Newhouse and Sellar.

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

Background: Insurance premium finance companies assist consumers and businesses in financing the payment of insurance premiums. Under a typical premium finance agreement, the insured promises to pay to the premium finance company the amount advanced by the company to an insurer, agent, or broker. The insured then makes payments to the premium finance company for the loan.

The Insurance Premium Finance Act allows licensed premium finance companies to charge a fee for late payment of an installment. Under current law, all premium finance agreements allow for a late charge of \$1 to 5 percent of the late payment, not to exceed \$5.

Summary: The late charge is limited to \$5 only if the loan in default is for personal, family, or household purposes. For businesses, the premium finance agreement may provide for a late charge of \$1 to 5 percent of the late payment.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 23, 1995

SB 5083

C 25 L 95

Changing the composition of the veterans affairs advisory committee.

By Senators Oke, Bauer, Franklin, Haugen and C. Anderson; by request of Department of Veterans Affairs.

Senate Committee on Government Operations
House Committee on Government Operations

Background: The Veterans' Affairs Advisory Committee comprises 17 members appointed by the Governor. The committee advises the Governor and the Director of the Department of Veterans' Affairs on matters pertaining to the Department of Veterans' Affairs.

One member is chosen from each of the three congressionally-chartered organizations with the largest number of active members in the state, as determined by the director.

Ten members are chosen to represent congressionally-chartered veterans' organizations having at least one active chapter in the state, with no organization having more than one representative.

Summary: The definitions of the veterans' organizations with the largest number of active members, and with at

least one active chapter in the state, are expanded to include nationally recognized veterans' service organizations. These organizations are listed in the current "Directory of Veterans' Service Organizations" published by the United States Department of Veterans' Affairs.

Votes on Final Passage:

Senate 45 0

House 97 0

Effective: July 23, 1995

SSB 5084

C 215 L 95

Reducing commute trips.

By Senate Committee on Transportation (originally sponsored by Senators Drew, Prince, Haugen, Wood, Fairley, Franklin, Deccio and Sheldon; by request of Department of General Administration).

Senate Committee on Transportation

House Committee on Transportation

Background: In 1991 the Legislature passed the Commute Trip Reduction (CTR) law which was initially introduced as part of the Governor's Clean Air Act. The CTR law attempts to reduce single-occupant vehicle (SOV) driving by requiring major employers (100 or more employees) in the state's eight largest counties to reduce the number of SOV trips to their work sites. The goals are a 15 percent reduction by 1995, 25 percent by 1997, and 35 percent by 1999.

Because the CTR law affects private and public employers, state government must also implement a commute trip reduction program for its employees. The Department of General Administration is the lead agency, and has been working on a plan to help the state reduce single-occupant driving by state employees.

Currently, the Director of General Administration must establish equitable and consistent parking fees after consulting with representatives of state agencies and state employees. The fees are deposited into the capitol vehicle parking account.

Summary: The Director of the Department of General Administration (GA) must establish equitable and consistent parking fees for capitol campus parking, and may, if requested by agencies, establish parking fees for agencies off the capitol campus.

The fees must be deposited into the state vehicle parking account, previously named the capitol vehicle parking account. The Legislature continues to appropriate these funds.

State agencies may impose parking fees where none exist, or increase parking fees where GA already imposes them. The agencies that impose parking fees must deposit the money into a new account called the state agency park-

ing account. State agencies may spend money on their CTR programs, parking programs, or lease costs for parking facilities without legislative appropriation.

The Office of Financial Management may authorize expenditures from the state agency parking account. No agency may receive an allotment greater than the amount of revenue deposited into the account.

Each agency must establish a committee of public employees to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately-owned rental parking in each region.

To reduce the state's subsidization of parking, state agencies may not enter into leases after July 1, 1997, that provide parking in excess of building code requirements. The director of GA may make exceptions.

The director of GA must report to the House and Senate Transportation Committees no later than December 1, 1997, regarding the implementation of this act.

Washington State's colleges and universities collect their own parking fees, and this legislation does not affect them.

Votes on Final Passage:

Senate 44 1

House 82 14 (House amended)

Senate 47 1 (Senate concurred)

Effective: July 23, 1995

2SSB 5088

C 216 L 95

Revising the law relating to sexual predators.

By Senate Committee on Ways & Means (originally sponsored by Senator Smith).

Senate Committee on Law & Justice

Senate Committee on Ways & Means

House Committee on Corrections

House Committee on Appropriations

Background: In 1990, the Legislature passed the Community Protection Act in order to address, in a comprehensive manner, the increasing danger posed by sex offenders.

One component of the act is a civil commitment procedure, which is created for a special category of sex offenders known as "sexually violent predators." A sexually violent predator is any person who has been convicted of or charged with a crime of sexual violence, and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence.

In 1993, the Washington State Supreme Court found the overall statutory scheme presented in the civil commitment section of the Community Protection Act to be constitutional. In Re Young, 122 Wn. 2d 1 (1993). However, the

court did find that several aspects of the act required clarification.

Summary: Comprehensive revisions are made to the sexually violent predator statute to reflect concerns expressed in recent court decisions. In addition, the operation of the statute is clarified.

The definition of a sexual predator is modified to include a requirement that the person needs to be confined in a secure facility in order to prevent future predatory acts.

A person alleged to be a sexual predator is entitled to a probable cause hearing within 72 hours after he or she is taken into custody. The detained person has the right to be represented by an attorney, to present evidence, to cross-examine witnesses, and review all reports in the court file.

The detained person has the right to a 12-person verdict, and the jury determination that the person is a sex predator must be unanimous.

If the person is not totally confined at the time the petition is filed, the state must show a recent overt act.

Procedures are established to allow a sex predator to petition the court for a conditional release by showing that his disorder or abnormality is changed to the extent that he or she is not likely to engage in predatory acts of sexual violence. In addition, the person must show that: (1) a qualified treatment provider is going to provide treatment; (2) a specific course of treatment is established; (3) a secure facility is available; (4) he or she is going to comply with the treatment program approved by the department and the court; and (5) he or she is going to comply with the supervision requirements of the Department of Corrections (DOC).

A court must direct a conditional release if the less restrictive alternative is in the best interest of the person and adequately protects the community. The court may impose treatment conditions and other conditions to protect the public.

Procedures are established to revoke the less restrictive alternative if the person does not comply with the terms and conditions of release.

The Department of Social and Health Services is responsible for costs relating to evaluation and treatment of the person in a less restrictive alternative.

The crime of escape in the second degree is established for any person who intentionally leaves the state of Washington without prior court authorization after being found a sex predator. A violation is a class C felony.

DOC may allow an escorted leave for a confined person to visit a seriously ill family member or go to the funeral of a family member.

Various definitions are revised or created. Definitions are created for an "overt act" and "likely to engage in predatory acts of sexual violence."

Votes on Final Passage:

Senate	49	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

SSB 5089

C 243 L 95

Requiring 911 compatibility of private telecommunications systems and private shared telecommunications services.

By Senate Committee on Energy, Telecommunications & Utilities (originally sponsored by Senators Loveland, Finkbeiner and Sutherland).

Senate Committee on Energy, Telecommunications & Utilities

House Committee on Energy & Utilities

Background: Private telecommunications systems are customer-owned systems that typically serve extensions in building complexes, campuses, or high-rise buildings, allowing callers within the building or campus to talk to each other without dialing into the public switched network. All outside calls are made to the public network by a single connection usually in a room within the building or campus.

Enhanced 911 emergency calling services enable the caller's number and location to be transmitted automatically to the 911 operator. However, in many cases, when a 911 call is made from a telephone which is part of a private telecommunications system, the 911 operator receives only the line identification for a central location, not the location of the individual caller. This can cause problems for an emergency response team trying to find the correct address, because the caller's location may be different than that received by the 911 operator.

Local government efforts to address this problem have led to inconsistent technical standards for systems in different jurisdictions.

Summary: By January 1, 1997, owners of a private telecommunications system serving residential customers and school districts must ensure that the system is connected to the public-switched network. This must be done in such a way that calls to 911 result in automatic location identification for each telephone, in a manner compatible with county E-911 systems.

Providers of private shared telecommunications services to multiple business users from a single system must be similarly connected, provided the businesses served contain a physical area of more than 25,000 square feet, are located on more than one floor of a building, or are located in multiple buildings.

Local regulations mandating automatic number or location identification are preempted.

The state enhanced 911 coordination office and advisory committee may participate in efforts to set uniform national standards for automatic number identification and automatic location identification, and must report its progress to the Legislature by January 1, 1997.

The State Fire Protection Policy Board must recommend to the Director of the Department of Community, Trade, and Economic Development rules on the minimum information requirements of automatic location identification.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 1, 1995 (Section 11)
July 23, 1995

SSB 5092

C 368 L 95

Authorizing creation of library capital facility areas.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley and Quigley).

Senate Committee on Government Operations
House Committee on Government Operations

Background: Library systems may be operated by various types of library districts or by cities, towns or counties. A public library district may be established in a part of a county, may be countywide, or may include several counties. Timberland Library District, for example, includes five counties in southwest Washington.

Construction of new library facilities may be financed by a district-wide levy, or, in some cases, may be financed by a city or town which has been annexed into a larger library district. There is no method for a community that is smaller than the library district, or not contiguous with a city or town, to finance the construction or acquisition of a new library facility.

Legislation enacted in 1961 that authorized library local improvement districts was declared unconstitutional by the state Supreme Court because LID assessments may only be imposed to the extent property values are increased by the project being financed. The court summarily concluded that libraries did not enhance property values. This constitutional limitation does not apply to tax levies, and it is believed that the authorization of capital facility areas with authority to seek voter approval of special tax levies would provide flexibility for financing new libraries.

Summary: A library capital facility area may be established if approved by the majority of voters in the proposed area voting at a general election. The election is called by the legislative authority of the county or counties

in which the area is located, upon the receipt of a petition requesting the area from the board of a library district. A library district includes a library system operated by a city, town or county. The petition must include a description of the boundaries of the area, and resolutions of the governing bodies of any cities or towns or adjoining library districts included in the area. The governing bodies must concur in its formation, and agree to the allocation of election costs.

The governing body of a library capital facility area is three members from each county legislative authority from the county or counties in which the area is located. In a multi-county area, a county may voluntarily agree to reduce its membership on the governing body.

A library capital facility area may borrow money to finance library capital facilities, including land, site improvements, construction of new buildings, acquisition and remodeling of existing buildings, and acquisition of equipment, furnishings and collections. The library capital facility area may issue bonds paid back through an excess levy on property in the area. The vote to authorize an excess levy may occur at the same time as the election to form the area. Excess levy elections may occur only at a general election.

A library capital facility area may design, administer the construction of, operate or maintain a library capital facility or may contract with a county, city, town or library district to perform any or all of these functions. Title to facilities may be transferred or held by the library capital facility area, or by a city, town, county, or library district.

A library capital facility area may be dissolved by a majority vote of the governing body, when all obligations under any bonds and any other contractual obligations are discharged or assumed by another governmental entity. A library capital facility area must be dissolved by the governing body in the event that the initial two elections conducted to authorize an excess levy fail.

The chapter authorizing library local improvement districts is repealed.

Votes on Final Passage:

Senate	47	1	
House	89	8	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

ESSB 5093
PARTIAL VETO
C 369 L 95

Changing provisions relating to fire protection.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley, Rasmussen and Drew).

Senate Committee on Government Operations
House Committee on Government Operations

Background: During the 1993 session of the Legislature, representatives of the state and local fire service community asked that a legislative study be undertaken to identify and make recommendations concerning (1) the state's role in providing fire services, and (2) the relationship between the state and local providers in assuring an adequate and efficient delivery of fire services. A Fire Study Work Group was appointed under the auspices of the Senate Committee on Government Operations. The Fire Study Work Group met throughout the 1993 interim, and analyzed and made recommendations in five areas: gathering and reporting fire statistics; fire service training; fire service inspection; fire investigation; and governance.

Because the powers of local fire units and the state Fire Protection Policy Board are already so broad, revisions are suggested that would change the emphasis or priority of the Board and make the statutes clearer and more specific.

Summary: Governance: In order to promote efficiency and effectiveness, the ten-member state Fire Protection Policy Board is reduced to eight members. Multiple representation on the board is eliminated. Two representatives of fire chiefs and one full-time, paid career fire fighter are eliminated upon expiration of their terms. A representative of the fire control programs of the Department of Natural Resources is added to the board.

Most powers, duties, and functions of the Department of Community, Trade, and Economic Development pertaining to fire protection are transferred to the Washington State Patrol. The Chief of the Washington State Patrol appoints an officer, who is known as the Director of Fire Protection. The Director of Fire Protection continues to: Carry out all the duties of the state Fire Protection Policy Board; prepare a biennial budget after consulting with the Board; administer the policies of the Board; and carry out all the duties of the former state Fire Marshal.

The Association of Fire Commissioners, the Washington State Association of Counties and the Association of Washington Cities must submit a report on achieving greater efficiencies in the delivery of fire protection services to the Government Operations Committee of the Senate and the Government Operations Committee of the House of Representatives on or before December 31, 1995.

The State Fire Protection Policy Board, with the cooperation and assistance of the Fire Commissioners

Association and the Department of Natural Resources, must submit a report on the feasibility of providing fire protection for lands not currently protected to the Government Operations Committee of the Senate and the Government Operations Committee of the House of Representatives on or before December 31, 1995.

Regionalism: The state Fire Protection Policy Board must give particular attention to the appropriate roles for both state agencies and local governments with fire protection responsibilities.

To the extent possible, the Board must encourage development of suitable regional organizations, considering such variables as geography, population, economic characteristics, and relative fire risk. The regions may reenforce coordination among state and local efforts, identify areas of special need in jurisdictions with limited resources, assist the state in its monitoring functions, identify funding needs and options, and provide models for building local capacity.

Fire Training: A new state priority on training is emphasized by reordering prior sections on training in the state Fire Protection Policy Board's duties, and bringing them closer together. The Board is specifically authorized to include within the master education and training plan agreements with community and technical colleges and other higher education institutions to provide programs directly. Training standards adopted by the Board are minimum requirements, which will allow local fire agencies to make them more rigorous. The Board is required to assure a continuing assessment of skills and encourage cross training in law enforcement skills for fire investigations.

In performing necessary administrative duties, the Director of Fire Protection is authorized to negotiate agreements with the State Board for Community and Technical Colleges, the Higher Education Coordinating Board, and the state colleges and universities. Programs covered by such agreements must include, but are not limited to, planning curricula, developing and delivering instructional programs and materials, and utilizing existing instructional personnel and facilities. (This authority complements the provision that the state Fire Protection Policy Board's master training plan allow for contracting with the higher education agencies.)

The Fire Study Work Group emphasized the need to continue supporting the Fire Service Training Center at North Bend, and also considered the need for other centers in the future. Toward that end, the power to lease facilities as well as construct them is added to the statute authorizing expenditures from the fire service trust fund.

Gathering and Reporting Fire Statistics: In addition to the data gathering and reporting functions already required of the Director of Fire Protection, specific authority is added to allow the state Fire Protection Policy Board to purchase the information from a qualified individual or

organization. The information provided must meet the diverse needs of state and local fire reporting agencies.

The date by which the Director of Fire Protection must distribute an annual copy of fire statistics to each chief fire official in the state is moved from January 31 to May 1.

An obsolete statute which required that all forms, instruction, and similar documents for fire statistics reporting be furnished at state expense is repealed.

A separate state arson investigation information system is established in the State Patrol. The state arson investigation information system must be developed in consultation with state and local fire investigators. All insurers required to file insurance claims must cooperate fully with any requests from the State Patrol in developing and maintaining this system. Confidentiality requirements are protected.

Fire Inspection: Language is added to the monitoring responsibilities of the state Fire Protection Policy Board specifying the following objectives and priorities: The comprehensiveness of state and local fire and life safety inspections; the level of skills and training of inspectors; and the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication.

Fire Investigation: To more clearly reflect actual practice, local officials responsible for investigating the cause and origin of fires are required to document the extent of damage, rather than the loss, of all fires.

The contracting out provisions for fire protection districts are amended to include authority to contract for investigation services as well as for fire prevention, fire suppression, and emergency medical services.

The state Fire Protection Policy Board must conduct a study on the overlapping and confusing jurisdiction and responsibilities of local governments concerning fire investigation. The Board must make recommendations to the Government Operations Committee of the Senate and the Government Operations Committee of the House of Representatives on or before December 31, 1995.

Nonapplicability: This act does not apply to forest fire service personnel and programs.

Votes on Final Passage:

Senate	46	1
House	96	0

Effective: July 1, 1995

Partial Veto Summary: The state Fire Defense Board develops and maintains the Washington State Fire Service Mobilization Plan, which is part of the Washington State Comprehensive Emergency Management Plan. It is the responsibility of the Director of the Department of Community, Trade, and Economic Development to mobilize jurisdictions under the mobilization plan. The bill transfers this mobilization responsibility to the Chief of

the Washington State Patrol. The partial veto eliminates this transfer of mobilization responsibility.

VETO MESSAGE ON SB 5093-S

May 16, 1995

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 11 and 12, Engrossed Substitute Senate Bill No. 5093 entitled:

"AN ACT Relating to fire protection;"

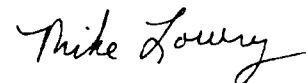
Section 11 of Engrossed Substitute Senate Bill No. 5093 establishes the Chief of the State Patrol as responsible for declaring fire mobilizations under the Washington Fire Mobilization Plan (plan). As stated in the plan, this action is the responsibility of the state emergency management program.

Because the emergency management program has responsibility for compensating local jurisdictions under the plan and because the existing policy regarding the mobilization decision was developed after extensive discussion with representatives of affected fire and emergency management organizations, I believe that the state emergency management program should maintain control of the decision to mobilize fire resources. I expect that the emergency management program and the fire services program will continue to work together, following a mobilization decision, to ensure that resources are used in an effective and coordinated manner. Section 12 references the Chief of the State Patrol exercising mobilization authority and is, therefore, properly vetoed as a result of my action on section 11.

For these reasons, I have vetoed sections 11 and 12 of Engrossed Substitute Senate Bill No. 5093.

With the exception of sections 11 and 12, Engrossed Substitute Senate Bill No. 5093 is approved.

Respectfully submitted,



Mike Lowry
Governor

SB 5098

C 38 L 95

Reenacting sections about county financial functions.

By Senators Loveland and Winsley.

Senate Committee on Government Operations
House Committee on Government Operations

Background: In 1994, the Legislature enacted a lengthy "clean-up" bill that addressed a wide variety of issues of concern to county treasurers and assessors. The title of the bill was "An act relating to taxation." There is some concern that the subject of some of the sections in the bill

ESSB 5101

were not adequately expressed in the title, as required by Article II, Section 19 of the state Constitution.

Summary: Eleven sections of Chapter 301, Session Laws of 1994, are reenacted under the title "An act relating to county financial functions."

Votes on Final Passage:

Senate	49	0
House	86	10

Effective: July 23, 1995

ESSB 5101

C 116 L 95

Authorizing the director of fish and wildlife to administer game fish catch record cards.

By Senate Committee on Natural Resources (originally sponsored by Senators Drew, Oke, Haugen and Winsley; by request of Department of Fish and Wildlife).

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: The requirements for steelhead trout catch record cards and steelhead fishing licenses are set in statute. The statutes are duplicatory and two fees are charged. The statute on catch record cards should be repealed to prevent charging steelhead fishers twice the intended fee.

Summary: The director of the Department of Fish and Wildlife is given the authority to regulate the administration of the steelhead trout catch record program. The rebate program for return of catch record cards is continued.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: July 23, 1995

ESSB 5103

C 1 L 95 E1

Making supplemental appropriations for the 1993-95 biennium.

By Senate Committee on Ways & Means (originally sponsored by Senators Rinehart and West; by request of Office of Financial Management).

Senate Committee on Ways & Means

Background: The agencies and institutions of state government operate on a fiscal biennium beginning on July 1 of each odd-numbered year. The omnibus biennial appropriations act is adopted by the Legislature during the legislative session preceding the beginning of the

biennium. Supplemental budgets are considered in subsequent legislative sessions.

Summary: 1993-95 biennial appropriations for various state agencies are modified. Significant appropriations from the state General Fund include \$45 million for costs associated with the 1994 forest fires, \$22 million for income assistance to pay for the cost of shortfalls in child support collections, and \$18 million for educational technology in community and technical colleges. Reductions are made in prior appropriations to reflect reduced Medicaid costs (\$68 million) and lower-than-anticipated enrollments in the public school system (\$43 million). The net decrease in state General Fund appropriations is \$1 million.

Votes on Final Passage:

Senate	47	0
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First Special Session

Senate	45	0
House	86	2
House	88	2

(House reconsidered)

Effective: May 9, 1995

SSB 5106

C 370 L 95

Providing for grizzly bear management.

By Senate Committee on Natural Resources (originally sponsored by Senators Morton, Owen, Drew, Sellar, Hochstatter, Fraser, Newhouse, Prince, Haugen and Oke).

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: Grizzly bears are an endangered species existing in very small populations in remote areas of the state.

Summary: The Department of Fish and Wildlife cannot transport or introduce in the state grizzly bears that are not native to the state of Washington. The department must protect grizzly bears and develop management programs that encourage the natural regeneration of grizzly bears.

The department is required to coordinate and negotiate with federal and state agencies.

Votes on Final Passage:

Senate	44	5
House	96	0

Effective: July 23, 1995

SB 5108
FULL VETO

Concerning the hunter education training program.

By Senators Snyder, Winsley and Palmer.

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: Hunter education requirements were changed in January 1, 1995, to require all persons born after January 1, 1972, to present a hunter safety certification in order to purchase a hunting license.

There is concern that many persons who were born after January 1, 1972, and who intend to purchase a hunting license, are not aware of, or cannot comply with, the new requirement to present a hunter safety certificate in order to purchase a hunting license.

Summary: Hunter education requirements for persons over 18 years old are repealed.

Votes on Final Passage:

Senate	44	1
House	76	20

VETO MESSAGE ON SB 5108

May 16, 1995

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. 5108 entitled:

"AN ACT Relating to hunting licenses;"

Senate Bill No. 5108 reverses current policy by eliminating hunter education requirements for the purchase of a hunting license for new hunters 18 years of age or older.

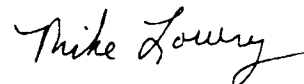
Hunter education courses save lives and prevent injury. They also promote good hunting practices and respect for private property. Other states agree: forty-eight states require mandatory hunter education, and twenty-nine states have regulations which require first time hunters of any age, or adults born after a certain date, to complete a hunter education course. From 1987-1993 the state of Washington averaged over 2 fatal and 19 nonfatal hunting accidents per year. We cannot afford to weaken a program that serves to reduce accidents and save lives.

The cost of the program to new hunters averages \$5. Certification lasts a lifetime. Although new hunters may be inconvenienced, this does not justify removing the current requirement.

I will ask the Fish and Wildlife Commission to work with the State Hunter Education Instructors Association and with other interested parties to ensure that an adequate number of courses are provided at times and places sufficient to allow accessibility to all prospective hunters.

For these reasons, I have vetoed Senate Bill No. 5108 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SSB 5118

C 244 L 95

Calculating excess compensation for retirement purposes.

By Senate Committee on Ways & Means (originally sponsored by Senators Winsley, Long, Bauer, Loveland and Fraser).

Senate Committee on Ways & Means
House Committee on Appropriations

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

"Excess compensation" is earnable compensation used in the calculation of the retirement benefit except regular salary, overtime and annual leave cash outs under 240 hours. Excess compensation includes cash outs of annual leave in excess of 240 hours, sick leave cash outs, payments for or in lieu of personal expenses and termination or severance payments.

Employers are responsible for paying the increased pension costs that arise from including excess compensation in earnable compensation. At the time of an employee's retirement, an employer must pay into the appropriate retirement system the present value of the total estimated cost of all present and future retirement benefits attributable to the excess compensation.

The Joint Committee on Pension Policy has found that certain employers avoid excess compensation charges by disguising certain types of payments as regular salary or overtime pay.

In 1993, legislation was enacted that allowed the inclusion of stand-by pay in earnable compensation when: (1) the member is required to be present at, or in the immediate vicinity of, a specified location; and (2) the employer requires the member to be prepared to report immediately for work if the need arises.

Summary: The definition of excess compensation is expanded to include any cash out of annual leave in excess of 240 hours of such leave, including an accrual of annual

SSB 5119

leave or any payment added to regular wages and salary concurrent with a reduction of annual leave; a payment for or in lieu of a transportation allowance; and the portion of any payment that exceeds twice the employee's regular rate of pay.

Compensation received for being in stand-by status is earnable compensation and is not excess compensation. A member is in stand-by status when the employer requires the member to be prepared to report to work immediately if the need arises. The requirement that the member must be present at or in the immediate vicinity of a specified location is dropped.

The definition of "cash out" added by this act is a clarification of the Legislature's original intent regarding the meaning of this term and applies retroactively to payments made before the effective date of this act.

Votes on Final Passage:

Senate	48	0	
House	92	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SSB 5119

C 345 L 95

Modifying the cost of living allowance for retirement purposes.

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Long, Winsley, Loveland, Newhouse, Fraser, Gaspard, Haugen, Sutherland and McAuliffe).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Public Employees' Retirement System (PERS) Plan I and the Teachers' Retirement System (TRS) Plan I currently have three cost-of-living adjustments in place.

The Plan I COLA provides an annual increase of 3 percent or inflation, whichever is less, to a retiree whose benefit has lost more than 40 percent of the purchasing power the benefit had when the retiree was age 65. The loss in purchasing power is measured by the Seattle Consumer Price Index. Currently, a member must wait until age 79 to receive a Plan I COLA.

The minimum benefit granted to a retiree is \$17.70 per month per year of service. The minimum COLA increases the minimum benefit annually by 3 percent or inflation, whichever is less. The minimum benefit applies to the pension portion of the retirement benefit only.

The 1993 ad hoc COLA (also known as the age-70 COLA) provided an increase of \$3 per month per year of service for retirees who were, as of July 1, 1993, at least age 70, had been retired at least five years and were not receiving either the Plan I COLA or the minimum benefit.

This COLA is temporary; retirees will no longer receive it after June 30, 1995.

Summary: The Public Employees' Retirement System (PERS) Plan I and the Teachers' Retirement System (TRS) Plan I cost-of-living adjustments and the minimum benefit COLA are repealed. The age-70 COLA is made permanent for those currently receiving it.

A new COLA is created for TRS Plan I and PERS Plan I. The COLA is a flat amount each month for each year of service payable to retirees age 66 or older and retired at least one year, and to retirees on the minimum benefit. The flat increase is referred to as the "annual increase." In 1995, the annual increase amount is \$.59 per month per year of service. The annual increase amount is increased each year by 3 percent.

A new minimum benefit of \$24.22 per month per year of service is granted to anyone whose pension and annuity amount falls below this amount after June 30, 1995.

Retirees on the current minimum benefit who are at least age 79 receive a permanent adjustment to their retirement allowance on July 1, 1995, of \$1.18 per month per year of service.

The retirement allowance of retirees on the minimum benefit increases each year by the annual increase.

Retirees not receiving the current minimum benefit and not receiving the age-70 COLA receive a permanent adjustment to their retirement allowance on July 1, 1995. Those who are age 70 receive 39 cents per month per year of service; those who are age 71 receive 79 cents per month per year of service; and those who are at least age 72 receive \$1.18 per month per year of service.

Votes on Final Passage:

Senate	47	2	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	44	2	(Senate concurred)

Effective: May 12, 1995

SB 5120

C 245 L 95

Providing death benefits under LEOFF.

By Senators Long, Newhouse, Bauer, Winsley, Loveland, Fraser and Haugen.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: A member of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan II with ten or more years of service who leaves employment or who becomes disabled may choose an

annuity benefit at age 55 or withdraw 150 percent of accumulated contributions. If, however, the member dies while an active member, the survivor may choose an annuity benefit or withdraw 100 percent of accumulated contributions.

A LEOFF Plan II member who leaves active service and withdraws contributions and later rejoins active service has a five-year window in which to restore those contributions. A member who misses the five-year window may restore withdrawn contributions by paying the full actuarial value of the increased benefit.

Summary: The survivor of a member of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan II with ten or more years of service may choose an annuity benefit or withdraw 150 percent of accumulated contributions. The death of the member must have occurred on or after July 25, 1993.

Any accumulated contributions attributable to restorations made after five years is refunded at 100 percent.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: May 5, 1995

ESSB 5121

PARTIAL VETO

C 371 L 95

Providing for agricultural safety standards.

By Senate Committee on Agriculture & Agricultural Trade & Development (originally sponsored by Senators Rasmussen, Morton, Snyder, Newhouse, Loveland, A. Anderson, Hochstatter, Haugen and Deccio).

Senate Committee on Agriculture & Agricultural Trade & Development

House Committee on Agriculture & Ecology

Background: The Department of Labor and Industries has broad rule-making authority to adopt rules providing for the safety of workers.

Prior to 1994, there was a separate set of regulations, known as vertical standards, that applied specifically to the agricultural sector. There were also general safety and health standards, known as horizontal standards, that applied to other industries. Over the years, the agricultural sector has not been subject to many of these general safety and health standards.

In February 1994, the Department of Labor and Industries adopted rules that placed agriculture under the general safety and health standards, with an effective date of March 1, 1995.

Disagreements continue as to the need and benefit of bringing the agricultural sector under the general safety and health rules.

Summary: The Department of Labor and Industries is directed to delay the effective date of agricultural safety rules adopted after January 1, 1995, until January 15, 1996. This delay covers both changes to agricultural-specific standards and application of any additional parts of the general industry safety standards to the agricultural industry.

The department is required to develop a separate manual that contains the agricultural safety standards. The separate manual may contain specific references to general industry safety standards. Otherwise, agricultural employers are exempt from the general industry safety manual.

The department must publish in one volume all of the occupational safety rules that apply to agricultural employers and to make this volume available to all agricultural employers before January 15, 1996. This volume is made available in both English and in Spanish.

Existing agency adopted rules requiring tractor rollover protective structures for pre-1976 tractors remain in effect, but may not be enforced until the department prepares a list of commercially available rollover protective structures. Persons may request a variance from the rules requiring rollover protective structures.

The department provides training, education and consultation services to agricultural employers prior to the effective date of the rules. These training and education programs are provided throughout the state and are coordinated with agricultural associations to meet their members needs.

Other than the rules described above, the Department of Labor and Industries may not adopt rules concerning agricultural safety, other than temporary emergency rules, unless required by federal law or subsequently authorized by the Legislature.

Votes on Final Passage:

Senate	49	0	
House	72	23	(House amended)
Senate			(Senate refused to concur)
House	77	17	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: The provision that prohibited the Department of Labor and Industries from adopting new rules that exceed those required by federal law was vetoed.

VETO MESSAGE ON SB 5121-S

May 16, 1995

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, Engrossed Substitute Senate Bill No. 5121 entitled:

"AN ACT Relating to agricultural safety standards;"

Engrossed Substitute Senate Bill No. 5121 is very good legislation which makes a number of changes related to agricultural safety standards. It provides equal treatment for farm workers in the area of workplace safety standards and provides technical assistance for agricultural employers.

However, section 3 of this bill prohibits the adoption of additional safety rules by the Department of Labor and Industries (L&I) unless those rules are mandated by federal law, or are specifically authorized by the legislature. I believe this section represents an unwise change in policy and creates a situation where agricultural workers do not receive protections equal to those of other workers. The federal Occupational Safety and Health Act of 1970 (OSHA) establishes minimum safety standards that states must meet or exceed for all workers. Section 3 would establish OSHA rules not as a minimum standard, as is the case for other workers, but as a maximum standard for farm worker safety.

Farm workers are an integral part of the state's labor force. They are entitled to the same respect and safe working conditions enjoyed by all other workers. By restricting rule making activities, section 3 undermines the worker protective policy embodied in the Washington Industrial Safety and Health Act. In addition, it would unnecessarily inhibit L&I from taking action to simplify rules, improve current practices, lessen regulatory burdens, respond to changes in agricultural technology or techniques, and respond to issues brought forth by industry.

For these reasons, I am vetoing section 3 of Engrossed Substitute Senate Bill No. 5121.

With the exception of section 3, Engrossed Substitute Senate Bill No. 5121 is approved.

Respectfully submitted,

Mike Lowry
Governor

SSB 5127

C 396 L 95

Changing provisions regarding public facilities districts.

By Senate Committee on Government Operations (originally sponsored by Senators West, Haugen, Morton, Prince, Moyer and McCaslin).

Senate Committee on Government Operations
House Committee on Government Operations
House Committee on Finance

Background: Public facilities districts are corporate municipal bodies, established by statute as independent taxing authorities. They may be created in any county with a population of 300,000 or more, and must be located more than 100 miles from any county in which the state has constructed and owns a convention center. They are authorized to acquire, build, own and operate sports and entertainment facilities.

Public facilities districts may impose excise taxes at a rate of not exceeding 2 percent on the sale or charge for furnishing lodging by a hotel, motel, trailer camp, or tourist court with 40 or more lodging units. With voter approval,

public facilities districts may impose a .1 percent sales and use taxes. With voter approval, public facilities districts may impose both single year excess property tax levies and multiple year excess levies to retire general obligation bonds issued for capital purposes.

Public facilities districts may issue general obligation bonds.

Summary: The public facilities districts are given powers and administrative mechanisms similar to those of other special districts. The board is given authority to promulgate rules for the day-to-day operation of the district, within the guidelines of the statute. The district is not given condemnation powers. The district is given the authority to issue revenue bonds and to pay compensation not to exceed \$3,000 per year, at the rate of \$50 per day for attendance at meetings or conferences. This compensation does not need to be authorized by board resolution.

A public facilities district may be created in any county. A public facilities district may be created without the approval of the governing body of the largest city in the county. The potential size of the governing body and the process by which members are appointed are altered in a county that does not have a city with 40 percent or more of the total county population. A public facilities district may provide convention facilities. A public facilities district may not impose its excise tax on the sale or furnishing of lodging if, after imposing this tax, the effective compound rate of state and local excise taxes on such sales or charges is 11.5 percent or more in any jurisdiction within its boundaries. Earnings on public facilities district moneys that are invested by the county treasurer are handled like earnings on moneys of other local governments that the county treasurer invests.

Votes on Final Passage:

Senate	44	0	
House	70	26	(House amended)
Senate	42	1	(Senate concurred)

Effective: July 23, 1995

SSB 5129

PARTIAL VETO

C 39 L 95

Excluding utility line clearing from the definition of retail sale.

By Senate Committee on Ways & Means (originally sponsored by Senators Sheldon, McCaslin, West and Snyder; by request of Department of Revenue).

Senate Committee on Ways & Means
House Committee on Energy & Utilities

Background: The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair,

telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms.

In 1993, the Legislature extended the retail sales and use tax to "landscape maintenance and horticultural services except horticultural services provided to farmers." Some landscaping activity was already subject to sales tax because retail sale is defined as including the altering or improving of real property. This included the planting of trees and shrubs, the construction of walkways and pools, and the installation of lawns. However, maintenance activities were not subject to tax. These activities included lawn cutting, hedge trimming, watering, and pruning or trimming of trees and shrubs.

As a result of the 1993 changes, the business and occupation (B&O) tax classification of landscape maintenance changed from service, which was taxed at the rate of 1.5 percent, to retailing, which is taxed at the rate of 0.471 percent.

Initiative Measure No. 601 prohibits, prior to July 1, 1995, any new or increased taxes or revenue-neutral tax-shifts, unless approved by the voters at a November general election.

Summary: Pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility, is removed from the definition of retail sale. As a result of this change, these activities are no longer subject to the retail sales and use tax, and the B&O tax classification changes from retailing, which is taxed at a rate of 0.471 percent, to service, which is currently taxed at a rate of 2.09 percent.

Votes on Final Passage:

Senate	46	1
House	95	0

Effective: July 1, 1995

Partial Veto Summary: The intent section was vetoed.

VETO MESSAGE ON 5129-S

April 17, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 5129 entitled:

"AN ACT Relating to excluding utility line clearing from the definition of retail sale;"

This measure removes pruning, trimming, repairing, removing, and clearing trees and brush near electric transmission or distribution lines or equipment from the definition of retail sale, thereby exempting such activity from state and local retail sales taxes. By doing so, this activity is changed from the retailing classification to the service classification for purposes of the state's business and occupation tax. The measure is effective on July 1, 1995.

Section 1 of Substitute Senate Bill No. 5129 states that the 1993 Legislature did not intend to extend, nor did it believe it was extending, the sales tax to the trimming and clearing of trees and brush near power lines. The language further asserts that the Department of Revenue misinterpreted legislative intent by adopting a rule extending the sales tax to such services and that it is the intent of section 2 of the bill to clarify that these activities are not subject to the sales tax.

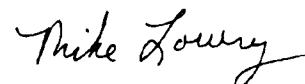
I believe the Department of Revenue had no alternative authority but to include the activity in the sales tax base through its rule. The language in the 1993 legislation pertaining to this question (E2SSB 5967) does not indicate that tree trimming near power lines was to be excluded from the term "landscape maintenance and horticultural services." In addition, there was no expression at the time by the legislature that the department could legally rely upon to exclude such activity from the sales tax base. It should be noted that when the sales tax was applied to these services by this previous legislature, horticultural services "provided to farmers" were excluded from application of the tax. No comparable explicit exclusion was provided for utility line clearing services.

As a result, section 2 of Substitute Senate Bill No. 5129 serves as a substantive change in law with application from July 1, 1995 forward. The presence of section 1, however, creates ambiguity and may encourage those who have paid sales tax on tree trimming near utility lines since the 1993 law change to believe they are entitled to refunds. Administering such claims and potentially litigating this issue would lead to an unnecessary expenditure of state funds and resources.

For these reasons, I have vetoed section 1 of Substitute Senate Bill No. 5129.

With the exception of section 1, Substitute Senate Bill No. 5129 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5141

C 332 L 95

Revising provisions relating to offenses involving alcohol or drugs.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Rasmussen, Quigley, C. Anderson and Bauer).

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

Background: Significant changes were made to the laws governing driving under the influence (DUI) during the 1994 legislative session. Concern has since been expressed that the laws are complicated and onerous to enforce. Recent court rulings have provided direction and impetus to revise the statutes.

The blood or breath alcohol concentration (BAC) at which a person is guilty of driving while under the influence of liquor or drugs is .10 in Washington. Eleven states and 21 Washington cities have reduced this standard to .08.

Last year Washington adopted administrative license suspension or revocation procedures that apply to second or subsequent DUI arrests and to minors with a blood or breath alcohol concentration of .02 or higher. Thirty-seven states and the District of Columbia have adopted administrative license suspension or revocation procedures.

Summary: Criminal Penalties. A person convicted of DUI is punished by imprisonment, a fine, and suspension of the person's driver's license for 90 days. The period of license suspension may not be suspended. A person who is convicted of a second DUI with an alcohol concentration of less than .15 is punished by imprisonment for 30 days, a fine of not less than \$500 and revocation of the driver's license for one year. In the case of a second DUI where the alcohol concentration was at least .15, the punishment includes 45 days of imprisonment, a fine of not less than \$750, and revocation of the driver's license for 450 days. Conviction of a third DUI with an alcohol concentration of less than .15 results in imprisonment for not less than 90 days, a fine of not less than \$1,000 and revocation of the driver's license for two years. If the alcohol concentration for a third DUI is at least .15, the punishment is imprisonment for not less than 120 days, a fine of not less than \$1,500 and revocation of the driver's license for three years.

Administrative Action. The officer who arrests a person for DUI must mark the person's driver's license so that it will serve as a 60-day temporary license. A person has 30 days from arrest to request a hearing before the Department of Licensing. The hearing must be held 60 days from the date of the arrest unless otherwise agreed to by the department and person. The officer's sworn report or report under declaration is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or in physical control of a motor vehicle while under the influence of alcohol or drugs or the person was driving or in physical control of a motor vehicle while having alcohol in his or her system in a concentration of .02 or more and was under 21 years.

Except in the case of a refusal to take a BAC test, a person's temporary driving privileges may be extended up to 90 days if the person petitions for a deferred prosecution of criminal charges arising out of the same incident. Except for refusal cases, obtaining a deferred prosecution stays the administrative suspension or revocation.

A person who is under 21 years of age, drives a motor vehicle and has, within two hours of operating the vehicle, an alcohol concentration of .02 or more is guilty of driving after consumption of alcohol which is a misdemeanor.

The first DUI incident in which the driver has a BAC of .10 or more results in placement of the person's driver's license in probationary status. The first refusal to submit to a breathalyzer test results in revocation for one year. The second or subsequent DUI incident within five years in which the BAC is .10 or more results in revocation for two years. For the second or subsequent breathalyzer refusal in

five years, the revocation period is two years or until the person reaches age 21, whichever is longer. The suspension or revocation imposed by the department is stayed if the person is accepted for deferred prosecution unless the revocation is for refusal to submit to a breathalyzer test. A person under the age of 21 who has an alcohol concentration of .02 or more receives a 90-day suspension of his or her driver's license. The driver's license is revoked for one year or until the person reaches 21 years, whichever is longer, for a second or subsequent incident.

A person must complete alcohol information school or any recommended treatment in order to have his or her driving privilege reinstated after it is suspended or revoked due to a conviction of DUI.

The \$125 fee that is assessed to people that are convicted, sentenced to a lesser charge, or given deferred prosecution as a result of an arrest for DUI, vehicular homicide or vehicular assault is reauthorized.

Votes on Final Passage:

Senate	46	1	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: May 11, 1995 (Sections 13 and 22)
September 1, 1995

SB 5142
C 192 L 95

Extending authority to enter into payment agreements.

By Senators Quigley and Sellar.

Senate Committee on Government Operations
House Committee on Financial Institutions & Insurance

Background: In 1993 the Legislature authorized the state, including the Washington Health Care Authority, the Washington Higher Education Facilities Authority, the Housing Finance Commission, cities, counties, port districts, and public utility districts with debt or annual revenues in excess of \$100 million to participate in "swap" agreements. "Swaps" are contracts where the parties trade their respective interest obligations on a specified amount of debt for a fixed period of time. The transactions virtually always involve a trade involving a fixed rate obligation for a variable rate obligation. Advantages of such trades include long-term interest rate cost savings, stability of payment obligations, short-term savings, and increased ability to refund debt.

The enabling legislation established a variety of restrictions on "swap" agreements. Agreements can only be made with "AA" rated institutions, or "A" rated institutions if secured by federal treasury bills. The transactions must

be evaluated and certified by a financial adviser. The "notional" amount and term of the trade cannot exceed the amount or term of the underlying debt.

The authority to enter "swap" agreements is limited to two years and expires on June 30, 1995. During this two year window, the City of Spokane, Chelan PUD and Snohomish PUD have completed "swap" agreements yielding substantial savings. It is desired that this authority be extended for an additional five years.

Summary: The authority of the state, and cities, counties, port districts and public utility districts with debt or annual revenues in excess of \$100 million to enter into interest rate exchange agreements, commonly known as "swap" agreements, is extended for an additional five years, to expire June 30, 2000.

Votes on Final Passage:

Senate	48	1	
House	95	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 1, 1995

SSB 5155

C 333 L 95

Exempting from the shoreline management act certain projects that have been granted hydraulic permits.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Hargrove, Owen, Snyder, Hochstatter, A. Anderson and Rasmussen).

Senate Committee on Ecology & Parks
House Committee on Government Operations

Background: The Shoreline Management Act (SMA) requires that local governments prepare comprehensive programs applicable to uses of the state's shorelines. The act covers all saltwater and freshwater areas of the state, except river segments with less than 20 cubic feet per second mean annual flow and lakes less than 20 acres. The jurisdiction of the act extends 200 feet landward from the ordinary high water mark of such water bodies. The Shoreline Act's stated policy is to provide for the management of shorelines by planning for and fostering all reasonable and appropriate uses. Preferred uses are declared to be those that prevent damage to the natural environment, control pollution, or are unique or dependent upon use of the state's shorelines.

The local shoreline master programs provide for use designations of the shorelines consistent with state guidelines. A permit from the county or city is required for "substantial" developments within shorelines, which are those with a value exceeding \$2500 or those that materially interfere with normal public use of the water or shorelines. Local permit decisions may be appealed to the Shorelines Hearings Board, which comprises the three members of

the Pollution Control Hearings Board, two local government representatives, and the Public Lands Commissioner.

The Hydraulic Project Act (HPA) requires that any person or government agency desiring to construct a project or perform other work that will use, divert, obstruct or change the natural flow or bed of any of the state's salt or fresh waters, obtain from the Department of Fish and Wildlife approval as to the adequacy of the project's protection of fish life. An application must include general plans for the overall project and complete plans and specifications for work within the high water line. Ordinarily a 45-day deadline is set for processing a complete permit application. The protection of fish life is the only ground upon which approval may be conditioned or denied. A permit is valid for a five-year period, and substantial progress on construction must occur within two years of permit issuance.

Summary: A public or private project designed to improve fish habitat, fish passage, or wildlife habitat is exempt from the permit requirements of the Shoreline Management Act when: (1) the project is approved by the Department of Fish and Wildlife; (2) the project is given a hydraulic permit; and (3) the local government determines that the project is substantially consistent with the local shoreline master program, and provides a letter to that effect to the project proponent.

Votes on Final Passage:

Senate	49	0	
House	70	26	(House amended)
Senate			(Ruled beyond scope)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	96	0	(House receded)

Effective: July 23, 1995

ESSB 5156

FULL VETO

Promoting competition for long distance telecommunications.

By Senate Committee on Energy, Telecommunications & Utilities (originally sponsored by Senators Sutherland, Gaspard, Sellar, Hochstatter and Loveland).

Senate Committee on Energy, Telecommunications & Utilities
House Committee on Energy & Utilities

Background: In 1982, a federal court mandated the break-up of the Bell telephone system. Under the court's decree, which became effective in 1984, local exchange companies (LECs) are limited to providing telephone services within defined local geographic zones known as local access transport areas (LATAs). By contrast, long distance companies may operate between LATAs

(inter-LATA), and provide any other telephone services, subject to certain conditions.

In Washington, long distance companies have been permitted to provide intra-LATA telephone services so long as their customers dial a four-digit access code to direct the call through the long distance company.

The Washington Utilities and Transportation Commission (WUTC) is considering proposals to authorize long distance companies to provide intra-LATA service by pre-subscription, without requiring a four-digit access code. Such proposals have raised concerns of competitive imbalance in the telecommunications marketplace, insofar as LECs are barred by federal law from competing in the inter-LATA market.

Summary: The WUTC may not require changes in current intra-LATA dialing patterns until such times as all carriers, including LECs, are authorized to provide intra-LATA service, or June 30, 1998, whichever is earlier.

The WUTC must submit to the Legislature by December 1, 1997, a study reviewing the intra-LATA and inter-LATA long distance markets, applicable laws and regulations, and the impact upon telephone rates and the public interest of proposed changes in rules governing intra-LATA services.

Votes on Final Passage:

Senate	41	7
House	87	10

VETO MESSAGE ON SB 5156-S

April 17, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5156 entitled:

"AN ACT Relating to promoting competition for long distance telecommunications;"

It is the stated telecommunications policy of the state of Washington to preserve affordable service, advance efficiency and availability, ensure reasonable rates for customers, and promote diversity in the supply of services and products throughout the state. The legislature has charged the Utilities and Transportation Commission with implementation of this policy.

Engrossed Substitute Senate Bill No. 5156 is contrary to that policy. It removes from the Commission's hands the ability to investigate an advancement in efficiency through the introduction of "one-plus" dialing parity on behalf of consumers. It establishes a moratorium on current dialing patterns, depriving consumers of convenience and ease of choice in local long distance calling. This legislation unnecessarily maintains barriers to competition and efficiency readily eliminated by currently available technologies. This is not the way of Washington State.

Washington State leads the nation in progressive telecommunications policies. We are gaining recognition for authorizing and affirming competition at the local level. We have learned that such competition provides the best product at the best price. Such competition is not only healthy for strong, cutting-edge business, it benefits the consumer as well.

As the telecommunications service market becomes increasingly competitive, the complex balance of prices, costs, subsidies, access, availability, diversity and flexibility must be conscientiously and accurately assessed at every level of proposed change. This

review and determination requires an appreciation for and understanding of perhaps the most complicated and rapidly advancing technology in the world. The Utilities and Transportation Commission offers the expertise and commitment to carry out this assessment. This is the right place to do the work.

The implementation of Engrossed Substitute Senate Bill No. 5156 would unnecessarily delay the development of a truly competitive telecommunications marketplace in our state. The Commission has been responsibly and fairly guiding this development since 1985. Impeding its work for at least three years, or until federal action is taken, stands to destroy our distinct advantage in drawing investment to our state and providing the quality and diversity of service we deserve.

I compliment the legislature on its efforts toward competitive equity in this complex area. However, I believe this proposal to be untimely. I am confident the Commission will not take action on this matter prior to the 1996 legislative session. This will leave ample time for review by the legislature of the interim efforts of both the Commission and the Governor's Telecommunications Policy Coordination Task Force.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5156 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

2SSB 5157

C 372 L 95

Providing for conspicuous external marking of hatchery produced chinook salmon and coho salmon.

By Senate Committee on Ways & Means (originally sponsored by Senators Owen, Drew, Sutherland, Hargrove, Oke and Haugen).

Senate Committee on Natural Resources
Senate Committee on Ways & Means
House Committee on Natural Resources
House Committee on Appropriations

Background: Protection of endangered salmon species is a primary tenet of modern fishery management. Mixed stock salmon fisheries will harvest hatchery origin salmon, which can tolerate a high harvest rate, and natural origin (sometimes endangered) salmon, which cannot withstand a high harvest rate, in an indiscriminate manner.

If hatchery origin salmon could be easily identified by marking, then mixed stock fisheries could be conducted in such a manner as to allow harvest of hatchery origin salmon, and release of unmarked salmon of naturally spawning origin.

Summary: Coho salmon and chinook salmon produced in salmon hatcheries are marked for the purpose of

identification in mixed stock fisheries. Tuna, mackerel and jack are exempt from the landing tax.

Votes on Final Passage:

Senate	43	1	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

SSB 5162

C 349 L 95

Changing the Vietnam veterans' tuition exemption.

By Senate Committee on Higher Education (originally sponsored by Senators Bauer, Oke, Snyder, Hargrove, Haugen, Kohl, C. Anderson and Winsley).

Senate Committee on Higher Education
House Committee on Higher Education

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 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 served in Southeast Asia during the time period between August 5, 1964 and May 7, 1975. Additionally, the veteran must be a resident of Washington and must have enrolled in a state institution on or before May 7, 1990.

The 1994 Legislature extended the sunset date for this exemption to June 30, 1997. The 1994 Legislature also required that veterans receiving the exemption must: (1) be enrolled for seven or more quarter credits per academic term or their equivalent; (2) have an adjusted gross family income not exceeding the Washington State's median family income; and (3) have exhausted all entitlement for federal vocational or educational benefits conferred by virtue of their military service.

Summary: Legislative intent is described. Public baccalaureate institutions and community colleges may exempt eligible Vietnam veterans from all or a portion of tuition and fee increases adopted after October 1, 1977. In order to receive the waiver, veterans must meet these conditions: (1) be a veteran who served on active duty in the military or naval forces of the United States anytime between August 5, 1964 to May 7, 1975; (2) have served in the Southeast Asia theater of operations; and (3) be a

resident student at the time of enrollment. The expiration date is extended to June 30, 1999.

Votes on Final Passage:

Senate	47	0	
House	92	0	(House amended)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SSB 5164

C 73 L 95

Allowing a conformed copy of certain orders to be served.

By Senate Committee on Law & Justice (originally sponsored by Senator Smith).

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

Background: During supplemental proceedings to enforce judgments, orders requiring persons to attend and be examined must be served by delivering a certified copy of the original order from the court.

The cost of obtaining a certified copy is added to the amount that is already owed by the defendant. Preparing certified copies also adds to the workload of court clerks.

Summary: A person served with an order to appear and be examined as part of supplemental proceedings may be served with either a certified copy of the court order, or a noncertified copy which bears a stamp or notation indicating the name of the judge or commissioner who signed the original order, and a stamp or notation indicating the original order is filed with the court.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 23, 1995

SB 5165

C 74 L 95

Revising the statute of limitations for negotiable instruments.

By Senator Smith.

Senate Committee on Financial Institutions & Housing
House Committee on Law & Justice

Background: Article 3 of the state Uniform Commercial Code (UCC) contains the provisions governing negotiable instruments. In general terms, a negotiable instrument is an unconditional promise or order to pay a fixed amount of

SSB 5166

money, such as a promissory note or a personal check, with or without interest or other charges.

Prior to 1993, Article 3 of the state UCC did not contain a specific statute of limitations, so the state limitation of actions statute was relied upon to determine statutory periods with regard to negotiable instruments. This provides that an action on a contract in writing, or liability express or implied arising out of a written agreement, must be commenced within six years.

In the last few years, the National Conference of Commissioners on Uniform State Laws completed revisions to the UCC Articles, and its recommendations were adopted by Washington in 1993. Among the changes incorporated into the state UCC was a statute of limitations for negotiable instruments. For example, legal action to enforce the obligation of a party to pay a note payable at a definite time must begin within six years after the due date. Similarly, enforcement of an obligation to pay a certificate of deposit must begin within six years after demand for payment is made.

However, an action to enforce the obligation of a party to pay an unaccepted draft, such as a personal check, must be commenced within three years after dishonor of the draft or ten years after the date of the draft, whichever period expires first.

It is suggested that the statute of limitations for unaccepted drafts be extended to allow for a longer period within which to bring an enforcement action.

Summary: The statute of limitations for enforcing the obligation of a party to pay an unaccepted draft is extended to six years after the dishonor of the draft or ten years after the date of the draft, whichever period expires first.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 23, 1995

SSB 5166

C 75 L 95

Regarding the renewal of judgments and the extension of judgment liens.

By Senate Committee on Law & Justice (originally sponsored by Senator Smith).

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

Background: In 1994, the Legislature enacted a law that permits civil judgments to be renewed and enforced for an additional ten-year period. However, no language was

included to extend a judgment lien based on an underlying judgment that has been renewed under this statute.

Summary: A lien based upon an underlying judgment that is renewed continues in force for an additional ten-year period.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 23, 1995

ESSB 5169

C 335 L 95

Changing education provisions.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Cantu, Pelz, Hochstatter, Drew, A. Anderson, Rasmussen and Kohl; by request of Joint Select Committee on Education Restructuring).

Senate Committee on Education
House Committee on Education

Background: In 1993, the Legislature created the Joint Select Committee on Education Restructuring. One of the committee's duties was to review K-12 public education laws to identify laws that inhibit the achievement of a performance-based education system in Washington State, and report to the Legislature by November 15, 1994. From July 1993 through November 1994, the committee developed review criteria; held a series of public meetings on the laws governing education; developed draft recommendations; distributed the recommendations for public comment; held public hearings on the recommendations; revised the recommendations; and submitted the recommendations to the Legislature. The bill contains the final recommendations of the committee.

Summary: The laws governing K-12 education are revised as follows:

Obsolete references and obsolete sections. Obsolete references to repealed statutes are deleted. Programs that expire or are replaced by other programs are deleted. Completed studies and reports are deleted. Terminology that is no longer used is updated.

Recodifications/technical changes. Statutes are recodified to more appropriate places in the code, and technical corrections are made.

Unfunded programs. Programs requiring a specific state appropriation that are not currently receiving state funds are deleted, including: the dropout prevention and retrieval program, the pilot program on school-based management, model curriculum guidelines, the minority teacher recruitment grant program, the teacher exchange programs, mandated training for evaluators, the cooperating teachers program, the fair start program, the six-plus-sixty volunteer program, school improvement and

research projects, the all kids can learn incentive grants, and the international education program. School districts retain the general authority to establish, or maintain such programs.

Reports. Selected reporting requirements are deleted. The initial responsibility for reviewing which data is necessary to measure the progress of education reform is shifted from the Joint Select Committee on Education Restructuring to the Commission on Student Learning. The committee retains the authority to make recommendations to the Legislature.

Permissive language. Selected language permitting or encouraging specific programs or activities by school districts is deleted. However, school districts retain the general authority to establish or maintain such programs.

Mandates on school districts. The requirement that school officials and employees deliver books, papers, and moneys to their successor is repealed.

Districts and certificated staff may agree to different lunch arrangements other than the 30 minute duty-free lunch required by statute. The statutory requirement that school districts provide job sharing information is repealed, but districts are required to have job sharing policies.

Votes on Final Passage:

Senate	45	0	
House	92	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	94	2	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 23, 1995

SSB 5182

C 193 L 95

Allowing county fiscal biennium budgets.

By Senate Committee on Government Operations (originally sponsored by Senators Haugen, Winsley, Hale, Deccio and Palmer).

Senate Committee on Government Operations
House Committee on Government Operations

Background: The state of Washington adopts a two-year fiscal biennium budget. Although almost all cities adopt a one-year fiscal budget, in 1985 they were authorized to adopt a two-year fiscal biennium budget. Counties are authorized to adopt only a one-year fiscal budget.

Summary: All counties are authorized to establish by ordinance a two-year fiscal biennium budget. The ordinance must be enacted at least six months prior to the beginning of the fiscal biennium. Counties that establish a

fiscal biennium budget may revert to a fiscal year budget at the conclusion of a fiscal biennium.

The county auditor must prepare the two-year fiscal biennium budget that sets forth the complete financial program of the county for the ensuing fiscal biennium, showing the expenditure program and the sources of revenue by which it is to be financed.

Any increased property tax revenues must be detailed in the budget document and must be disclosed at an open public meeting.

Any county adopting a fiscal biennium budget must adopt an ordinance providing for a public hearing for a mid-biennial review and modification of the fiscal biennium budget.

Votes on Final Passage:

Senate	48	0	
House	95	2	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

SSB 5183

C 194 L 95

Regarding county auditors.

By Senate Committee on Government Operations (originally sponsored by Senators Hale, Haugen, Winsley and Deccio).

Senate Committee on Government Operations
House Committee on Government Operations

Background: Some county statutes still contain duplicative provisions, archaic language and references to record-keeping techniques no longer practiced.

Summary: The terms used for county government are modernized in sections concerning the county auditor, prosecuting attorney, county commissioners, county finances and county road engineer records. The board of county commissioners, rather than each member of the board, must file the inventory of capitalized assets.

Votes on Final Passage:

Senate	48	0	
House	89	8	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 23, 1995

ESSB 5190

C 373 L 95

Making it a crime to tattoo a person under age eighteen without parental consent.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Pelz, Smith and Heavey).

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

Background: Many young people are getting tattoos. Tattooing is a procedure commonly done by inserting pigment or indelible ink under the surfaces of the skin by pricking with a needle or otherwise, so as to produce a permanent mark or figure that is visible through the skin. This procedure may be performed on a child of any age without parental consent. There is concern that minors, because of their youth, do not fully comprehend the significant and permanent nature of tattooing their skin.

Summary: It is a misdemeanor for a person to tattoo a minor under the age of 18. It is not a defense that the person applying the tattoo did not know the minor's age, unless the person applying the tattoos made an effort to ascertain the age of the minor by requiring production of picture identification.

Votes on Final Passage:

Senate	46	1	
House	80	15	(House amended)
Senate	43	1	(Senate concurred)

Effective: July 23, 1995

SB 5200

C 128 L 95

Exempting from use tax naval equipment transferred due to base closure.

By Senators Haugen, Winsley, Spanel, Sheldon, West, Roach and Oke; by request of Governor Lowry.

Senate Committee on Ways & Means
House Committee on Finance

Background: The state sales tax is paid on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms, including purchases by mail order.

The federal supremacy clause and the doctrine of inter-governmental immunity prevent the state from taxing the federal government directly. However, a contractor who

installs property for the federal government is liable for use tax on the value of the materials used in the installation, including materials supplied to the contractor by the government.

Summary: The use of naval aircraft training equipment transferred to Washington State from a naval installation in another state as a result of the federal base closure act is exempt from use tax.

Votes on Final Passage:

Senate	45	1
House	92	0

Effective: April 20, 1995

2ESSB 5201

C 3 L 95 E1

Providing tax exemptions for manufacturing and processing.

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Cantu, McAuliffe, Haugen, Winsley, Snyder, Loveland, Sheldon, Fairley, West, Long, Palmer, Schow, Moyer, Sellar, Rasmussen, Deccio, Heavey, Quigley, C. Anderson, Oke, Roach and Hale; by request of Governor Lowry).

Senate Committee on Ways & Means

Background: The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. Materials and labor used to alter or improve real or personal property are subject to the tax. Exempt from tax are purchases for resale and purchases of components and ingredients that become part of another product for sale.

Three sales and use tax deferral programs have been enacted to encourage the location of business in Washington.

The distressed area deferral program targets economically distressed areas with unemployment rates that are 20 percent higher than the state average. Manufacturing and research and development businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. Manufacturing includes computer related businesses. The business is required to create at least one job per \$750,000 of investment. Expansion of an existing facility is eligible if the cost of the expansion exceeds 25 percent of the existing facility. To be eligible, a cogeneration project must be integral to the manufacturing facility and be at least 50 percent owned by the manufacturer. The deferred taxes are forgiven if the investment project meets the program criteria during the repayment period.

The new business deferral program is available state-wide to manufacturing and research and development

firms that were not doing business in the state prior to 1985. The sales and use tax on new buildings, equipment and machinery, and installation labor is deferred for a three-year period after completion of the project. The business is required to repay the deferred taxes over a five-year period.

The high technology deferral program is available statewide to businesses involved in "high-tech" research and development and pilot scale manufacturing. The business must be involved in biotechnology, advanced computing, electronic device technology, advanced materials, or environmental technology. These businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. The sales and use tax is deferred for a three-year period after completion of the project. The business is required to repay the deferred taxes over a five- or six-year period.

In 1994, the Legislature directed the Department of Revenue to study the impact of the current state tax structure on the manufacturing industry.

Summary: A statewide sales and use tax exemption is provided and the state's sales and use tax deferral programs are revised as follows.

Sales Tax Exemption. Sales of new and replacement machinery and equipment used directly in a manufacturing operation, including installation labor and services, are exempt from sales and use taxes. Machinery and equipment includes pollution control equipment.

Manufacturing operation includes that portion of a cogeneration project that is used to generate power for on-site consumption. Manufacturing operation does not include research and development activities, the production of electricity, or the preparation of food products on the premises of a person selling food at retail.

Distressed Area Tax Deferral. The distressed area tax deferral program is revised. Sales of machinery and equipment, including installation labor and services, used in businesses located in distressed areas are exempt from sales and use taxes whether or not the project continues to meet the program criteria during the repayment period. The requirement that a business create one job per \$750,000 of investment in buildings or machinery and equipment is eliminated except for community empowerment zones and counties that are contiguous to eligible counties. Eligibility for cogeneration projects under the distressed area program is changed to that portion of a cogeneration project that generates power for consumption within the manufacturing site.

An expansion or renovation must increase the floor space or production capacity of an existing structure to qualify rather than costing more than 25 percent of the value of the existing facility.

Deferred taxes for businesses currently in the program need not be repaid on machinery and equipment for lumber and wood products industries, and sales of or charges made for labor and services, of the type that qualifies for exemp-

tion under this act, to the extent the taxes have not been repaid.

New Business Tax Deferral. The new business tax deferral program for buildings and machinery and equipment, including labor, for businesses not involved in manufacturing and research and development activities in the state prior to 1985, is terminated December 31, 1995.

High Technology Tax Deferral. Taxes deferred under the high technology tax deferral program need not be repaid. However, if a portion of the facility is used for other than qualified research and development, or pilot scale manufacturing during the eight years following completion of the facility, a pro-rated share of the taxes must be repaid with interest. However, no repayment is required on new and replacement machinery and equipment used directly in the manufacturing process, including installation labor and services, and sales of pollution control equipment used in manufacturing facility, including installation labor and services. An expansion or renovation must increase the floor space or production capacity of an existing structure to qualify rather than costing more than 25 percent of the existing facility.

The legislative fiscal committees are required to analyze the economic impacts of the manufacturers' tax exemption and report to the Legislature no later than December 1, 1999.

Votes on Final Passage:

Senate 45 4

First Special Session

Senate 45 1

House 92 5

Effective: July 1, 1995

SSB 5209

C 131 L 95

Authorizing the extension of water or sewer service within an approved coordinated water system plan service area.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen, Swecker, Drew, Schow, Heavey and Winsley).

Senate Committee on Government Operations
House Committee on Government Operations

Background: A county boundary review board may review, approve, disapprove or modify a proposal to extend sewer or water service outside of the existing boundaries by a city, town or special purpose district. The jurisdiction of the boundary review board may be invoked if three members of a five-member board or five members of a board in a county with a population of one million or more file a request for review.

Review by the boundary review board may also be triggered by the request of any governmental unit affected by

SSB 5214

the proposed action or by a petition signed by 5 percent of the registered voters in the affected area or by the owners of 5 percent of the value of real estate in the affected area.

The boundary review board may not invoke its own jurisdiction if the extension of water or sewer service involves water mains of six inches or less in diameter, sewer mains of eight inches or less in diameter, or the county legislative authority is planning under the Growth Management Act and has, by majority vote, waived the authority of the boundary review board to initiate review of extensions.

Summary: The jurisdiction of a boundary review board to review an extension of water or sewer service by a city, town or special purpose district beyond its corporate boundaries if the extension is within that jurisdiction's service area pursuant to an approved countywide plan is repealed.

Votes on Final Passage:

Senate	46	0	
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: April 24, 1995

SSB 5214

C 76 L 95

Making admissible children's statements concerning acts of physical abuse.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, C. Anderson, Winsley, Haugen and Kohl).

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

Background: An out-of-court statement made by a child less than 10 years old describing a sexual act attempted or performed on him or her is admissible into evidence if the court finds that the statement is reliable and the child testifies. If the child is unable to testify, there must be corroborative evidence of the sexual act before the statement can be admitted.

Summary: The child victim hearsay statute is amended to admit testimony describing any act of physical abuse of the child by another that results in substantial bodily harm, as defined in the preliminary article of the Washington criminal code.

Votes on Final Passage:

Senate	47	0	
House	94	1	

Effective: July 23, 1995

ESSB 5219

PARTIAL VETO

C 246 L 95

Changing domestic violence provisions.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Roach, C. Anderson, Long, Haugen, McCaslin, Spanel, Drew, Winsley, Kohl and Sheldon).

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

Background: The Domestic Violence Protection Remedies Task Force is a group consisting of domestic violence advocates, lawyers, law enforcement and representatives of the court system. The task force has suggested a number of changes to improve the effectiveness of the domestic violence laws, including: improving victims' access to the courts; allowing consolidation of domestic violence actions with other domestic relations actions; providing the courts more information about the legal history of parties; clarifying law enforcement response to domestic violence calls; giving the court authority to order that the petitioner have possession of essential personal effects; increasing the penalty for violation of a restraining order; and requiring training and development of policies related to domestic violence.

The task force also found that stalking is a common form of domestic violence, and has suggested that stalking of a family or household member be specifically included within the jurisdiction of the Domestic Violence Protection Act.

To qualify for grants under the federal Violence Against Women Act, states may not charge fees for obtaining protection orders. Washington law requires a fee for filing a petition for protection order, but allows waiver of the fee if the court determines the petitioner is unable to pay.

The fee for a marriage license includes a \$5 fee designated for the use and support of prevention of child abuse and neglect activities. The authorization to collect the fee expires June 30, 1995.

Summary: The crime of stalking committed against a family or household member is included within the definition of domestic violence in the Domestic Violence Protection Act.

No fees for filing or service of process may be charged to petitioners seeking a domestic violence protection order. If the court finds service of the petition by publication is appropriate, the court may allow service by mail instead, if that is determined to be just as likely to give actual notice as service by publication and the petitioner is unable to afford the cost of service by publication.

The hearing on a petition for a protection order may be conducted by telephone to accommodate a petitioner's disability or, in exceptional circumstances, to protect a petitioner from further violence.

After a hearing, the relief the court may grant includes requiring the respondent to pay administrative court costs, and ordering the use of a vehicle and possession of essential personal effects. Upon declining to issue a protection order, the judge must state in writing the reasons for denial of the order.

In dissolution actions, in actions seeking child custody by a nonparent, and in paternity actions, the court may issue a domestic violence protection order or an anti-harassment order, or may consolidate into the case a previously-issued domestic violence order.

The Administrator for the Courts must arrange for the translation of domestic violence instructions and informational brochures into the languages of significant non-English-speaking populations in this state. The translations are required to be distributed to county clerks by January 1, 1997. Interpreters must be appointed for non-English-speaking persons to assist them in the preparation of forms, in participating in the hearing and in translating any orders.

Protection orders are required to contain the date and time of issuance and an expiration date. County clerks must enter the orders into a statewide judicial information system within one judicial day after issuance. This system is required to be available in each district, municipal and superior court by July 1, 1997. Courts are required to consult the system to avoid the issuance of conflicting orders in different courts.

Violation of a domestic violence protection order is increased from a misdemeanor to a gross misdemeanor. Even if an order is not entered in the law enforcement computer system, a police officer may enforce a protection order upon presentation of an unexpired, certified copy, and must arrest a person who has knowledge of an order and violates it. Officers are also required to arrest persons 16 years of age or older if the officer believes the person assaulted a family or household member within the last four hours. The term "family or household member" is amended to have the same meaning as in the Domestic Violence Act, by including persons 16 years of age or older who have had a dating relationship, and persons with a parent-child relationship.

By January 1, 1997, the Criminal Justice Training Commission must include 20 hours of training about domestic violence cases in its basic law enforcement curriculum. The commission is also required to develop a domestic violence program for use by all law enforcement agencies for in-service training. By January 1, 1997, the Criminal Justice Training Commission must develop an educational manual and a training curriculum for use by prosecutors, and distribute it to all prosecutors by July 1, 1998.

Name change petitions may be filed in superior court if a person seeks to have the file sealed because of fear for their own safety, or the safety of their child.

The June 30, 1995 expiration date for the \$5 fee for the use and support of prevention of child abuse and neglect activities that is added to the marriage license fee is stricken.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: May 5, 1995 (Section 37)
July 23, 1995

Partial Veto Summary: Two sections relating to granting protection orders in child custody proceedings were vetoed. Those same statutes were amended with nearly identical language to this bill in Substitute Senate Bill 5835.

VETO MESSAGE ON SB 5219-S

May 5, 1995

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 25 and 28, Engrossed Substitute Senate Bill No. 5219 entitled:

"AN ACT Relating to domestic violence;"

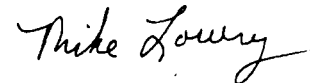
This bill clarifies and strengthens important provisions of the state's domestic violence law. I strongly support enactment of these provisions to provide improved safety and justice for battered partners.

Sections 25 and 28, however, contain amendments related to restraining orders identical to those already signed into law in sections 2 and 3 of Substitute Senate Bill No. 5835. Vetoing these duplicate sections will avoid unnecessary cross referencing requirements in the Revised Code of Washington.

For this reason, I am vetoing sections 25 and 28 of Engrossed Substitute Senate Bill No. 5219.

With the exception of sections 25 and 28, Engrossed Substitute Senate Bill No. 5219 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5222

C 26 L 95

Regulating length of log trucks.

By Senate Committee on Transportation (originally sponsored by Senators Owen, Haugen, Prince, Morton and Winsley).

Senate Committee on Transportation
House Committee on Transportation

Background: The legal length of a semitrailer in a tractor/semitrailer combination is 53 feet. For the logging industry, this restricts the length of logs that can be hauled on the public highways to 53 feet.

Some logging companies are seeking to increase the length of the logs that can be hauled. An extra two to four feet gives the mill more options as to where to cut the log to achieve optimum quality.

The Department of Transportation (DOT) has recently granted the logging industry a waiver to the 53-foot restriction. The waiver allows log trucks to transport 57-foot 2-inch logs under a special overlength permit for a fee of \$10 per month. The overall length of the vehicle is 65 to 75 feet, depending on the length of the tractor. The waiver terminates June 30, 1995. The purpose of the waiver is to give the industry time to seek a legislative solution.

Summary: The legal overall length of a log truck and stinger-steered pole trailer is 75 feet, the same legal length as a truck/trailer combination. Stinger-steered means the coupling device is located behind the tires of the last axle on a log truck.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 1, 1995

SSB 5231

FULL VETO

Separating payment of transportation agency tort liabilities.

By Senate Committee on Transportation (originally sponsored by Senators Owen and Prince; by request of Department of Transportation).

Senate Committee on Transportation

Background: The liability account was created in 1989 and covers all state agencies, boards and commissions except the University of Washington and the Marine Division of the Department of Transportation. All participating agencies are charged a premium, which is retained in a single account for payment of claims. This results in risk sharing among all the agencies, without

respect to historical tort exposure levels between the various departments.

Summary: A new transportation account is created within the tort liability account. The transportation account is comprised only of motor vehicle or transportation fund monies. Any interest earned on the account must remain in the account.

A risk management advisory committee is established to provide guidance in the administration of the transportation account.

Votes on Final Passage:

First Special Session

Senate	45	0
House	90	0

VETO MESSAGE ON SB 5231-S

June 14, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5231 entitled:

"AN ACT Relating to the tort liability account;"

Substitute Senate Bill No. 5231 creates a sub-account within the state's Tort Liability Account comprised only of premium payments from the Motor Vehicle Account and transportation accounts. It allows the new sub-account to retain its interest earnings and creates a separate transportation risk management advisory subcommittee.

This separate risk management account for transportation agencies is not necessary and only contributes additional administrative work with little benefit to the public. Transportation agencies are already individually monitored within the statewide risk pool to calculate risk and premium assessments. In addition, the bill promotes inconsistent treatment of state fund sources since the new transportation sub-account would be the only account in the risk management pool to retain interest earnings. This change would result in lost revenue to the General Fund. Finally, the creation of a separate transportation risk management advisory subcommittee duplicates the work currently being done by the statewide Risk Management Advisory Committee.

For these reasons, I have vetoed Substitute Senate Bill No. 5231 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SSB 5234

C 40 L 95

Modifying eligibility for juvenile offender basic training camp option.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Smith, Long, Haugen

and Kohl; by request of Department of Social and Health Services).

Senate Committee on Human Services & Corrections
House Committee on Corrections

Background: When the juvenile offender basic training camp program was created in 1994, the only juveniles eligible to participate were those with dispositions of 52-78 weeks for nonviolent and nonsex-related offenses.

The camp was designed to accommodate at least 70 offenders, but currently only 15-18 of the 1,250 juveniles in the state system meet the eligibility requirements.

Summary: The eligibility requirement of a minimum disposition of 52 weeks is eliminated. Juveniles with dispositions of any length up to 78 weeks are now eligible to participate in the juvenile offender basic training camp program.

The Department of Social and Health Services is required to perform a risk assessment on every offender referred to the program and to exclude from participation in the basic training camp any candidate who is assessed as a high risk offender.

Eligible offenders may participate in the 120-day program at any time during their disposition.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 23, 1995

2SSB 5235

C 117 L 95

Adding a superior court judge in Clark county.

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Sutherland, Palmer and Smith).

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

Background: By statute the Legislature determines the number of superior court judges in each county. Clark County currently has six superior court judges. The county has experienced growth in the number of cases filed and tried in its superior court.

The Washington State Administrator for the Courts has conducted a "weighted caseload" study and estimates that Clark County needs additional superior court judges to handle the current caseload.

The Washington State Constitution provides that the state and counties should share the salary expense for superior court judges. Other costs associated with a judicial position, such as capital and support staff cost, are borne by the county.

Summary: An additional superior court judge is authorized for Clark County, increasing the number of superior court judges in Clark County from six to seven. Clark County is responsible for the costs associated with the additional judicial position.

Votes on Final Passage:

Senate	49	0
House	92	0

Effective: July 23, 1995

SB 5239

C 195 L 95

Requiring any person convicted of communication with a minor to register as a sex offender.

By Senators Oke and Owen.

Senate Committee on Law & Justice
House Committee on Corrections

Background: All persons residing in this state who have been convicted of a sex offense are required to register with the sheriff of the county in which they reside. The term "sex offense" includes all felony level convictions for rape, molestation, incest, and communicating with a minor for immoral purposes.

The crime of communicating with a minor for immoral purposes is a gross misdemeanor, unless the person has a prior conviction for that crime or a prior conviction for a felony sex offense. The existence of one of these prior convictions raises the crime to a class C felony. Without such a prior conviction, persons convicted of communicating with a minor for immoral purposes are not required to register as sex offenders. It has been suggested that any conviction for communicating with a minor for immoral purposes should subject the offender to the sex offender registration requirements.

Summary: For purposes of the sex offender registration statutes, the term "sex offense" includes any violation of the statute prohibiting communication with a minor for immoral purposes. Offenders convicted of the crime of communication with a minor for immoral purposes are subject to the sex offender registration requirements for ten years.

Votes on Final Passage:

Senate	44	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 23, 1995

ESB 5243

C 41 L 95

Revising provision authorizing a special permit for miniature boilers.

By Senator Oke.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: In 1993, the Legislature authorized the Department of Labor and Industries to grant special installation and operating permits to miniature boilers. Because of their size, miniature boilers cannot comply with the adopted code requirements of the State Board of Boiler Rules. These miniature boilers are used by hobbyists in model locomotives and launches, and for other noncommercial and non-industrial purposes. The law allows special permits only for those miniature boilers manufactured before January 1, 1995, that do not exceed certain statutory limits. This provision prevents new miniature boilers from being certified for use.

Summary: The provision that grants special permits only for miniature hobby boilers manufactured before January 1, 1995, is eliminated. The current limits on the size, specifications, and use of these miniature boilers remain intact.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 23, 1995

ESSB 5244

PARTIAL VETO

C 401 L 95

Revising the definition of "dependent child" for purposes of aid to families with dependent children.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Owen and Hargrove).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: Currently, a child in need under 18 years of age who chooses to leave his or her parent's home and live with a relative may be defined as a dependent child. The child may be eligible to receive Aid to Families with Dependent Children assistance while living with the relative, with or without the approval of his or her parents. The parents of the child may be required to reimburse the Department of Social and Health Services for assistance payments made on behalf of the dependent child.

Summary: A responsible parent is excused from providing support for a dependent child receiving public assistance if the parent establishes: (1) he or she is the

legal custodian; (2) the child left the home of the parent without the parent's consent; (3) there is no current investigation, pending case, or court order involving abuse or neglect by the parent; and (4) the parent attempted to regain custody of the child. The Department of Social and Health Services (DSHS) must adopt rules to implement this section.

When DSHS receives an Aid to Families with Dependent Children (AFDC) application and a DSHS employee has reason to believe that the child has suffered abuse or neglect, the employee is required to report the abuse.

Whenever an AFDC application is approved, DSHS must make a reasonable effort to determine whether the child is living with a parent. If the child is not living with the parent with whom the child most recently resided, DSHS must make a reasonable effort to notify the parent within seven days after approval of AFDC assistance, unless there is a substantiated claim that the parent abused the child. DSHS is required to notify the parent that AFDC assistance has been approved and advise the parent of his or her rights under the act.

DSHS is required to disclose the address of the child to the parent, when the parent requests the information in writing, unless there is a current investigation or pending case involving abuse or neglect by the parent.

DSHS must advise the parent of the provisions of the Family Reconciliation Act.

No AFDC provision can limit the requirements of DSHS to provide notification to parents or limit the right of a responsible parent to be excused from providing support for a dependent child under this act.

DSHS is required to seek federal waivers to fully implement the legislation and to report its efforts to the Legislature. A severability clause is included.

Votes on Final Passage:

Senate	48	0	
House	67	28	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	94	0
Senate	43	0

Effective: July 23, 1995

Partial Veto Summary: The Governor vetoed the provisions which relieved parents of the responsibility to provide support for their children, who receive public assistance, after leaving home without permission. The provisions requiring DSHS to seek federal waivers and report to the Legislature were also vetoed.

VETO MESSAGE ON SB 5244-S

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 4, 5, and 6, Engrossed Substitute Senate Bill No. 5244 entitled:

"AN ACT Relating to the definition of "dependent child" for purposes of aid to families with dependent children;"

The primary goal of Engrossed Substitute Senate Bill No. 5244 is to provide information and support to parents whose children have chosen to leave home. Letting parents know, in appropriate situations, that their child is safe, living with a relative, and receiving public assistance benefits is an important improvement to children's services. It is equally important to let these parents know that family reconciliation services are available. This policy is parallel to the provisions which encourage parental notification contained in Engrossed Second Substitute Senate Bill No. 5439 (the Becca Bill), previously enacted into law, and to the Runaway Hotline which facilitates family reconciliation through the provision of information about services available to families.

However, this bill also relieves parents, whose child has left home without their permission, from the obligation to financially support that child if the child is receiving Aid to Families with Dependent Children (AFDC). The state of Washington expects all parents to provide their children with care, support, and guidance. This obligation extends to cases where circumstances are such that a child leaves the parental home, moves in with a relative, and receives AFDC. There is no justification for requiring the taxpayer to support these children and not look to their parents for a contribution to this cost.

For this reason, I am vetoing sections 1, 4, 5, and 6 of Engrossed Substitute Senate Bill No. 5244.

With the exception of sections 1, 4, 5, and 6, Engrossed Substitute Senate Bill No. 5244 is approved.

Respectfully submitted,



Mike Lowry
Governor

SB 5251

C 42 L 95

Affecting the transportation authority of first class cities.

By Senators Rasmussen, Fraser, Oke, Wojahn, Franklin, Winsley, Schow, Swecker and Gaspard.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, first class cities are authorized to exercise their powers relative to railways (such as owning, constructing, operating, etc.) throughout the county in which they are located, and into adjoining counties, as long as the adjoining county has a population between 40,000 and 125,000 and is intersected by an interstate highway.

Summary: For cities owning railway extending beyond their own county, the requirement that the adjoining county have a certain population and be intersected by an interstate highway is removed. The result is that first class cities may maintain railways beyond the boundaries of their county and into any other adjoining county.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 23, 1995

ESSB 5253

C 43 L 95

Implementing the public health improvement plan.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Quigley, Moyer, Hargrove and C. Anderson; by request of Department of Health).

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

Background: The Health Services Act of 1993 required that the state Department of Health collaborate with the state Board of Health, local health jurisdictions and other public and private groups to prepare a public health services improvement plan. The plan must contain specific standards for the improvement of public health activities, a listing of those communities not meeting the standards, a budget and staffing plan for bringing those communities up to standards, and a statement of the costs and benefits of doing so in terms of health status improvement.

The initial plan was submitted in December 1994. It contains 88 capacity standards intended to measure state and local health jurisdictions' infrastructure adequacy, and 29 health outcome measures. The plan assesses the public health system's current operations against these standards and recommends funding, governance and other changes to bring about public health system improvements.

Among the plan's recommendations is that state and local health department contractual relations contain specific service delivery capacity objectives and health outcome objectives, and that these — not service unit measurements — be used as the basis for accountability.

Summary: Based on the public health improvement plan, the state Department of Health must identify key health outcomes sought for the population, such as improved immunization rates, and the capacity needed by the public health system to achieve these. The Department of Health must also distribute funds to improve local public health capacity to achieve these outcomes within flexible local governance structures; enter into performance based contracts with local health jurisdictions to achieve specific health outcomes specified in local government assessments, including those done by public health and safety networks; assess performance against these contractual expectations; and evaluate biennially the

overall system's effectiveness at improving health outcomes within each local health jurisdiction.

Responsibility to develop an Indian health care delivery plan is transferred from the Health Care Authority to the Department of Health.

Counties creating local health jurisdictions may add city, town, or non-elected officials to local health boards, as long as non-elected persons do not constitute a majority.

Any single county may form a health district and may include such representation on the district board from cities and towns as the county chooses.

The local health officer and administrative officer must be appointed by the district board of health in home rule counties that establish health districts.

Combined city-county health departments are given greater flexibility in the qualifications, terms and other matters related to the local health officers they may appoint. Existing county ordinances establishing health jurisdictions may remain in effect.

Any state funds in the public health services account need not be distributed to local health jurisdictions on a per capita basis.

Changes in public health governance and finance contained in these provisions and in the 1993 Health Services Act become effective in January 1996, if either SB 6058 becomes law or if the biennial budget contains \$2.25 million specifically to offset losses to public health jurisdictions resulting from changes in public health finance and governance laws. Otherwise, these changes are delayed until January 1998.

Votes on Final Passage:

Senate	45	0
House	92	4

Effective: April 17, 1995 (Section 9)
 June 30, 1995 (Sections 15 & 16)
 July 1, 1995
 January 1, 1996 or 1998 (Sections 6-8, 10 & 11)

SB 5266
PARTIAL VETO
 C 27 L 95

Revising provisions regulating court reporting.
 By Senators Pelz, Newhouse, Heavey, Wood and West; by request of Department of Licensing.

Senate Committee on Labor, Commerce & Trade
 House Committee on Commerce & Labor

Background: Court reporters make verbatim records of court proceedings, depositions, and other official proceedings. A court reporter may work as an official reporter for a superior court judge or may work on an

independent basis, reporting depositions and various official proceedings.

In 1989, the Legislature enacted the Shorthand Reporting Practice Act. The act provides that no person may represent himself or herself as a court reporter, shorthand reporter, certified shorthand reporter, or certified court reporter without first obtaining a certificate from the Department of Licensing. An applicant must pass an examination no more difficult than the examination for official reporters and meet other specific qualifications.

In the Shorthand Reporting Practice Act, the practice of "shorthand reporting or court reporting" is defined as "the making by means of written symbols or abbreviations in shorthand or machine writing of a verbatim record" of court proceedings, depositions, or other official proceedings and the producing of a transcript from the proceeding. However, the act did not prohibit the practice of court reporting or use of the title "certified court reporters" by stenomaskers who were practicing as of September 1, 1989.

Summary: The Court Reporting Practice Act is adopted. All references to the practice of "shorthand reporting or court reporting" are changed to "court reporting." A person may not practice as a court reporter without first obtaining a certificate from the Department of Licensing.

The definition of the "practice of court reporting" is expanded to include making a verbatim record by oral reporting by a stenomask reporter.

The Shorthand Reporting Advisory Board is abolished.

The qualifications for certification include meeting the standards set by the director and: (1) holding one of the following: (a) certificate of proficiency, registered professional reporter, registered merit reporter, or registered diplomate reporter from National Court Reporters Association; (b) certificate of proficiency or certificate of merit from National Stenomask Verbatim Reporters Association; or (c) a current Washington State court reporter certification; or (2) has passed an examination approved by the director or an examination that meets or exceeds the standards established by the director.

Stenomask reporters practicing in Washington during the past two years are grandfathered into the act if they apply to the department before January 1, 1996.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: July 23, 1995

Partial Veto Summary: The provision that prohibits a person from practicing or representing himself or herself as

a court reporter without obtaining a certificate from the department is deleted.

VETO MESSAGE ON SB 5266

April 13, 1995

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. 5266 entitled:

"AN ACT Relating to court reporting;"

Section 2 of Senate Bill No. 5266 amends RCW 18.145.010 by stipulating that no person may practice court reporting without first obtaining a certificate from the Department of Licensing. This amendment effectively elevates the regulation of this profession from certification to licensure in that it prevents non-certified individuals from performing court reporting functions in any capacity. This change is inconsistent with the intent of RCW 18.145 to regulate the profession at the level of certification. The law will continue to require individuals to meet and maintain minimum standards of competency in order to represent themselves as court reporters.

For the reasons stated above, I have vetoed section 2 of Senate Bill No. 5266.

With the exception of section 2, Senate Bill No. 5266 is approved.

Respectfully submitted,



Mike Lowry
Governor

SB 5267

C 158 L 95

Establishing filing fees and tabulation procedures for write-in candidates.

By Senators Sheldon, Haugen and Wood.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Any person who desires to be a write-in candidate and have such votes counted at a primary or election must file a declaration of candidacy no later than the day before the primary or election. There is no statutory requirement that the person pay a filing fee at the time of filing a declaration of candidacy as a write-in candidate.

Regardless of whether a write-in candidate has filed a declaration of candidacy and regardless of whether there are enough votes to nominate a write-in candidate, votes for a write-in candidate must be tallied separately.

Summary: Any person who files a declaration of candidacy as a write-in candidate must pay a filing fee in the same manner required of other candidates filing for the office. Write-in votes cannot be tallied separately for a

person who files a declaration of candidacy, unless the number of votes alters the results of the election.

Votes on Final Passage:

Senate	48	0	
House	80	17	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

ESB 5269

C 4 L 95 E2

Raising the maximum cost for raffle tickets to twenty-five dollars.

By Senators Rasmussen, Pelz, Heavey, Winsley, Franklin, Oke and Deccio.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Charitable or nonprofit organizations can conduct raffle games and sell individual raffle tickets for no more than \$5 each. Funds generated from raffle ticket sales are used to fund the programs and operations of the charitable and nonprofit organizations.

Summary: The limit on individual raffle ticket prices is increased from \$5 to \$25.

Votes on Final Passage:

Senate	43	5	
House	79	16	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)

Second Special Session

Senate	41	5
House	86	10

Effective: August 24, 1995

SB 5274

C 28 L 95

Clarifying the funding formula for the municipal research council.

By Senators Haugen, McCaslin, Winsley, Wood and Palmer.

Senate Committee on Government Operations
House Committee on Government Operations

Background: The Municipal Research Council (MRC), through the Municipal Research and Services Center, provides a variety of legal, budgeting, planning and other services to cities and towns in the state. MRC is funded by deductions from a motor vehicle excise tax account and the sales tax equalization account. The motor vehicle

excise tax account is otherwise distributed to all cities and towns based on population. The sales tax equalization account is distributed to cities and towns that have sales tax revenues less than 70 percent of the state per capita average.

Prior to 1990, the deduction for the MRC was taken prior to the funds being divided into two accounts. The effect was that the deduction impacted both accounts.

In 1990, the Legislature enacted two conflicting amendments regarding this distribution. One measure provided that 65 percent of the MRC deduction come from the motor vehicle excise tax account and that 35 percent come from the sales tax equalization account. This distribution preserved the allocation that existed before. The other measure provided that the distribution to the Municipal Research Council would come solely from the motor vehicle excise tax account.

Since 1990, the treasurer has continued to deduct funds for MRC from both accounts. However, the conflict that exists because of the double amendments still needs to be resolved.

Summary: The enactment of a double amendment in 1990 is corrected by reenactment. The funding of the Municipal Research Council comes from the motor vehicle excise tax allocation for cities (65 percent) and from the city sales tax equalization account (35 percent).

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: July 23, 1995

SB 5275

C 196 L 95

Affecting the consolidation of cities and towns.

By Senators Haugen, McCaslin and Winsley.

Senate Committee on Government Operations
House Committee on Government Operations

Background: A proposal for the consolidation of adjoining cities and towns must be initiated either by resolution of the legislative body of each of the cities and towns or by petition. The question of consolidation must be submitted and approved by the voters of each city and town involved. In addition to voting on the question of consolidation, the voters may also be asked to vote on the assumption of indebtedness and on the form or plan of government.

It is prescribed that the question of the assumption of indebtedness by a city in which the indebtedness did not originate shall be placed on the ballot as a separate proposition with the words: "For Assumption of Indebtedness" and "Against Assumption of Indebtedness." The proposition does not authorize a levy if it receives a favorable vote.

There are no provisions authorizing the selection of a name of the consolidated municipality.

The option of providing for electing officials from wards is not addressed.

Not more than two square miles in area shall be included within the corporate limits of a town having a population of 1,500 or less, or located in a county with a population of one million or more. Not more than three square miles in area shall be included within the corporate limits of a town having a population of more than 1,500 in a county with a population of less than one million.

Summary: If the assumption of indebtedness is to be voted on in a city consolidation election, the question on the ballot must state: "For Assumption of Indebtedness to be paid by the levy of annual property taxes in excess of regular property taxes" and "Against Assumption of Indebtedness to be paid by the levy of annual property taxes in excess of regular property taxes." Approval of the proposition authorizes annual property taxes to be levied on the property within the city in which the indebtedness did not originate.

The joint resolution or petition initiating the consolidation of cities and towns may prescribe the name of the consolidated city or provide that a ballot proposition be submitted. Proposed names are separately stated on the ballot providing the voter with the option to select one. The county canvassing board for each county in which the proposed consolidated city is located must report the number of votes cast in their county for each optional name. The name receiving the greatest combined number of votes becomes the name of the consolidated city. In the event of a tie vote, the name is chosen by lot drawn by the mayor of the largest city at a public meeting.

The joint resolution or petition initiating the consolidation process may prescribe that officials of the consolidated city be elected from wards, except when a commission form of government is prescribed. Wards are drawn so that they are of nearly equal population, and so that the boundaries of the former cities and towns that are consolidated be given maximum effect, in order to minimize the fractionating and dilution of the vote of any one former city or town between the new wards.

The square mileage limitations on the size of towns does not apply to a town located in three or more counties.

Votes on Final Passage:

Senate	47	0	
House	95	1	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

ESB 5276

C 77 L 95

Changing references from "handicapped" to "with disabilities" in the common school education code.

By Senators McAuliffe, Drew, Bauer, Hochstatter, Sutherland, Long, Pelz, Rasmussen, Haugen, Fairley, Winsley and Kohl.

Senate Committee on Education
House Committee on Education

Background: In 1990, Congress amended the federal special education laws. The term "handicapped" was replaced with the term "disability."

Summary: Terminology used in the common school provisions is changed. The term "handicapped" is replaced with the term "disability." The term "special education" is inserted to clarify that the educational program students with disabilities can qualify for is the special education program.

Votes on Final Passage:

Senate	45	0
House	95	0

Effective: July 23, 1995
September 1, 2000

SSB 5278

C 44 L 95

Revising provisions relating to awards to persons found not guilty by reason of self defense.

By Senate Committee on Law & Justice (originally sponsored by Senators Wojahn, Oke, Gaspard, Winsley, Franklin, Long, Rasmussen and Wood).

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

Background: Washington law provides that no person shall be placed in legal jeopardy for acting in self-defense. If a criminal defendant is found not guilty based on self-defense, and the trier of fact finds self-defense was justified by a preponderance of the evidence, the state must pay all expenses incurred by the defendant in defending against the charge.

In some cases, defendants found not guilty based on self-defense were themselves engaged in criminal conduct at the time they defended themselves. For example, a defendant recently charged with murder and assault was acquitted based on self-defense. The trial court denied the defendant's recovery of expenses because on the day of the incident, the defendant had ingested cocaine and alcohol, armed himself with a loaded shotgun, and deliberately sought out a drug transaction in a high-crime area. When the drug deal went bad, a confrontation ensued and the

defendant shot two people, wounding one and killing the other. The Court of Appeals reversed the trial court and awarded the expenses to the defendant based on the current Washington statute. Concern has been raised that this situation was not what the Legislature intended the self-defense reimbursement statute to cover.

Summary: The statute requiring the state to pay the legal expenses of a defendant found not guilty by reason of self-defense is amended. If the trier of fact finds that the defendant engaged in criminal conduct substantially related to the events giving rise to the charges filed against the defendant, the judge may deny or reduce the amount of expenses the state must pay.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SSB 5279

C 18 L 95

Making small loans.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Roach, Prince, Spanel, Hale, Heavey, Kohl, Sellar and C. Anderson).

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

Background: Licensed check sellers and cashers are currently prohibited from making loans.

Small, short-term loans may fill a credit need in the community. They represent a risk to the lender that may justify a higher interest rate/fee combination than other types of loans.

Small, short-term loan activity probably occurs with some regularity outside of the services offered by existing, licensed lending institutions.

Summary: Licensed check sellers and cashers are authorized to make loans of up to \$500 for a period of 31 days or less, and may accept a post-dated check from the borrower as security for the loan.

Check cashers and sellers who wish to make small loans must obtain an endorsement on their license for each location where they are going to make these loans.

The aggregate of interest and fees is limited to 15 percent of the amount loaned.

To obtain a license endorsement to allow them to make loans, a check casher or seller must obtain a bond or other approved financial security device in an amount and format determined by the director of the Department of Financial Institutions. This bond or other device is in addition to the financial security required for the underlying license. Anyone damaged by violations of the act by a check casher or

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seller can claim against the bond or other security for actual damages.

The prohibition against check cashers and sellers making small loans is appropriately amended.

Certain parts of the application for a small loan endorsement are exempt from the Public Disclosure Act.

Votes on Final Passage:

Senate	48	1
House	96	0

Effective: July 23, 1995

SB 5282

C 197 L 95

Modifying department of revenue tax information disclosure regulations.

By Senators Fraser and Newhouse; by request of Department of Revenue.

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

Background: Current law does not allow the Department of Revenue to answer certain types of requests from the public. There is concern that clarification is needed to simplify what information may be disclosed to the public and what information requires confidentiality. In addition, some existing restrictions impede the department's ability to investigate and collect amounts that are owed under Washington tax laws.

Summary: The Department of Revenue or an officer, employee, agent, or representative may not disclose tax information regarding a taxpayer, if the director determines that the disclosure may identify a confidential informant.

The department does not have authority to give, sell, or provide access to any list of taxpayers for any commercial purpose. It may disclose tax information that is also maintained by another Washington State agency, local governmental agency or court of record as a public record.

The department may disclose taxpayer information to a person under investigation or during any court or administrative proceeding. The information must be obtained in connection with the department's duties relating to an audit, collection activity, or civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of the information are parties to the return or tax information to be disclosed. Notice is required to be given to the taxpayer who is in possession of the tax information. There is a 20-day time period for the person in possession of the information to petition superior court for injunctive relief. A list of factors is provided for the court to consider in deciding whether to limit or deny the request of the depart-

ment. The department is required to pay the costs of production of the information it seeks.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 1, 1995

SB 5287

C 217 L 95

Providing school loan forgiveness in exchange for service within Washington state.

By Senators Wood, Sheldon, Bauer, Kohl, Rasmussen and Hochstatter; by request of Higher Education Coordinating Board.

Senate Committee on Higher Education
House Committee on Higher Education

Background: The Western Interstate Commission on Higher Education (WICHE) is a compact of the western states formed 40 years ago to promote the sharing of higher education resources. One of the WICHE programs in which Washington participates is the Professional Student Exchange Program (PSEP). PSEP enables students from member states to enroll in specific professional programs not offered in the student's home state. The student's home state pays a predetermined support fee to help defray the student's cost of education.

Washington is a net importer of students under this program. In 1994-95 Washington schools will receive about \$890,000 in support from other states for about 80 students. In exchange, Washington supports about 20 state residents enrolled in optometry in out-of-state schools for a total cost of about \$146,000.

The state's health care plan has identified various health care shortage areas around the state. The plan has recommended that osteopathy students be supported through WICHE in order to help meet the need for primary care in these shortage areas. While the Higher Education Coordinating Board has the authority to add osteopathy as a supported program, the current program does not guarantee that the student supported through a WICHE grant will return to the state after graduation.

Summary: Washington students who participate in the Professional Student Exchange Program and enroll in out-of-state programs (optometry and osteopathy) not offered in Washington receive tuition assistance in the form of loans that may be forgiven in exchange for the student's service within the state of Washington after graduation. The WICHE grant program is converted into a loan program for all new recipients named to the program after January 1, 1995. The Higher Education Coordinating Board is required to make rules outlining the terms and

conditions of the loan and of the forgiveness provisions. The intent is that the entire amount of the loan is repaid to the state should the recipient fail to provide the required service in a designated shortage area within the state.

The expiration date in the future teacher conditional program is deleted.

Votes on Final Passage:

Senate	45	0	
House	84	11	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 3, 1995

SB 5292

C 247 L 95

Revising the level of civil penalties for violation of gas pipeline safety regulations.

By Senators Sutherland and Finkbeiner.

Senate Committee on Energy, Telecommunications & Utilities

House Committee on Energy & Utilities

Background: The Federal Office of Pipeline Safety authorizes the Washington Utilities and Transportation Commission to operate the natural gas pipeline safety program in Washington State. This delegation of authority also provides a federal grant of up to \$100,000 to fund the program.

Congress recently amended the Pipeline Safety Act to increase penalties for safety violations. Within the past year, federal officials reviewed the existing state program. They concluded that state penalties must be equivalent to federal penalties so as to preserve Washington's eligibility to operate the pipeline safety program and to continue to receive federal grant funds.

Summary: References to specific penalty amounts for violating natural gas pipeline safety provisions are removed. The Washington Utilities and Transportation Commission is directed to set penalty levels by rule.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 23, 1995

SB 5294

C 45 L 95

Paying for fire fighters' retirement provisions.

By Senators Sheldon, Winsley, C. Anderson, Haugen, Palmer and Roach.

Senate Committee on Government Operations
House Committee on Government Operations

Background: A volunteer fire fighter's relief and pension principal fund exists in the state treasury as a trust fund for volunteer fire fighters who are members of municipal fire departments.

If a municipal corporation allows its volunteer fire fighters to enroll in the pension system that is funded by the relief and pension fund, then an annual \$60 per fire fighter fee must be paid, one-half by the municipality and one-half by the fire fighter.

Summary: The municipality is given the authority to pay voluntarily the fire fighter's share of the \$60 per year fee.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 23, 1995

SSB 5308

C 198 L 95

Changing certain health professional examination procedures.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fairley, Moyer, Franklin and Deccio; by request of Department of Health).

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

Background: Most of the health care professions currently regulated by the state have the option of using regional or national examinations to establish qualifications for licensure. However, some professions are required by statute to individually prepare separate state exams.

The statutes also contain overly prescriptive language regarding how exams must be conducted and the subjects to be included.

Summary: Boards and/or examining committees for the following professions are able to use national or regional exams: chiropractic, dispensing optician, optometry, dental hygiene, Board of Pharmacy (pharmacy assistants), physical therapy, psychology, veterinary medicine.

In addition, exam procedures and requirements are streamlined, and other technical changes in language are made for the following professions: chiropractic, dental, dental hygiene, optometry, veterinary medicine, massage therapy.

SSB 5315

The Secretary of Health is established as the licensing authority under the Denturist Licensure Act, and the Board of Denture Technology is to advise the secretary on these responsibilities. Language permitting automatic licensure for denturists through federal enclaves is deleted.

Votes on Final Passage:

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

Effective: May 1, 1995 (Sections 18-25)
July 23, 1995

SSB 5315

C 374 L 95

Modifying agriculture regulations.

By Senate Committee on Agriculture & Agricultural Trade & Development (originally sponsored by Senators Rasmussen, Morton, Loveland, Newhouse and Roach; by request of Department of Agriculture).

Senate Committee on Agriculture & Agricultural Trade & Development

Senate Committee on Ways & Means

House Committee on Agriculture & Ecology

House Committee on Appropriations

Background: Milk and Milk Products. Presently, the Department of Agriculture may revoke only the license of milk distributors when milk products fail to meet the grade. Additional consumer protection is sought by also allowing the department to revoke the license or degrade a product of a milk processing plant or producer who fails to meet Grade A milk requirements.

Food Safety Inspection. The Department of Agriculture administers the state Food, Drug and Cosmetic Act to protect the public from contaminated food products. Currently, food storage warehouses are not licensed and are infrequently inspected.

Flour, White Bread and Rolls. State statutes relating to flour, white bread and rolls no longer conform to federal statutes and regulations.

Eggs and Egg Products. The proliferation of salmonella declines when eggs are kept at 45 degrees or below. Currently, egg graders are required to refrigerate eggs at 45 degrees and when transported more than two hours. Distributors and retailers are not required to have refrigeration equipment.

Eggs produced from flocks of less than 3,000 hens are exempt from the Wholesome Egg Products Act.

Commercial Feed. The state's commercial feed law was adopted in 1965 patterned after the Model Feed Bill developed by the Association of American Feed Control Officials. The purpose of the Model Feed Bill is to establish a national standard to facilitate interstate marketing of feeds. No substantial revisions of the state law have been

made since 1982, while significant changes have been made to the Model Feed Bill.

Livestock Inspection. Generally, cattle sold in the state or transported out of the state are required to be brand inspected. Ways to reduce the cost of brand inspection involving small numbers of cattle sold between private parties is proposed.

Commodity Commissions. The Office of Financial Management and the State Auditor disagree as to whether all commodity commissions are exempt from the state Budget and Accounting Act.

When there is only one nominee submitted for a position on the Dairy Products Commission, current law requires that the Director of Agriculture nominate an additional candidate prior to holding an election.

Collection Procedures. Some, but not all, programs administered by the Department of Agriculture contain specific statutory authority to charge interest and to recover costs associated with civil judgments when businesses do not pay bills on time.

Summary: Milk and Milk Products. The director's authority is expanded to allow for the revocation of the license or to degrade a product of a milk processing plant or producer who fails to meet the Grade A milk requirements.

Food Safety Inspection. Food storage warehouses are required to be licensed except those that are inspected by an approved private sanitation consultant. Independent sanitation consultants are required to meet certain qualifications and be approved by the director. Inspection reports prepared by independent sanitation consultants are forwarded to the department. Food storage warehouses that utilize independent consultants are exempt from licensure.

Fruit and vegetable storage warehouses are excluded from the definition of food storage warehouse.

Monies collected from licenses and fees under the Food, Drug and Cosmetic Act are placed in the agricultural local fund.

The department is authorized to suspend or revoke a food storage warehouse license for failure to comply with licensing provisions, failure to maintain necessary records or for failure to comply with the Food, Drug and Cosmetic Act.

The fee for sanitary certificates issued to food processors is increased from \$20 to \$50.

Flour, White Bread and Rolls. Current state statutes regarding flour, white bread and rolls are repealed.

Eggs and Egg Products. In addition to egg graders, the refrigeration requirement for eggs is extended to distributors and retailers.

The egg dealer license is increased from \$10 to \$30, and the egg dealer branch license is increased from \$5 to \$15. The director is authorized to assess a civil penalty not to exceed \$1,000 in lieu of seeking criminal prosecution.

The director is provided authority to establish by rule procedures to exempt flocks of 3,000 hens from some provisions of the Wholesome Egg and Egg Products Act.

Commercial Feed. The current procedure of registering commercial feeds is changed to require licensing of any person who manufacturers feed that is to be distributed in this state. Registration requirements continue to apply to pet foods.

Several amendments are made to commercial feed labeling requirements, inspection fee payment and inspection procedures.

Livestock Inspection. The department may allow by rule cattle owners to use self-inspection certificates as an option to mandatory brand inspections conducted by the department.

Commodity Commissions. It is clarified that commodity commissions are exempt from the state Budget and Accounting Act.

An election is unnecessary if there is only one nominee for a position on the Dairy Products Commission.

Pesticide Registrations. Revenue generated by pesticide registration fees are to be deposited in the agricultural local fund rather than in the state general fund. Registrants may elect to pay for a two-year period rather than annually.

Collection Procedures. The director is provided authority to retain collection agencies, and to add charges paid to collection agencies and banks to the costs owed to the department. Also authorized is a 10 percent handling charge to cover the agency's cost to recover unpaid bills. The department is allowed to bring civil actions for unpaid debts and to recover all costs and attorney fees associated with obtaining legal judgments. The department is also allowed to charge 1 percent per month on monies owed to the department.

Abandoned Horses. The director of Agriculture has the discretion to sell a horse or other animal at public sale and includes horses that were abandoned after December 1, 1994.

Agricultural Fairs. An agricultural fair that received a funding allocation as a county fair but is now reorganized as an area fair continues to be eligible to receive a funding allocation.

Noxious Weeds. The State Noxious Weed Control Board is to conduct a study of the cost of controlling weeds on state-owned or managed lands and state-owned rights of way. Washington State University is to test biological control agents for the control of knapweed.

Votes on Final Passage:

Senate	45	2	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: May 16, 1995 (Sections 69, 70, 72-79)
 June 30, 1995 (Sections 1-47, 50-53, 59-68)
 July 23, 1995
 July 1, 1997 (Sections 49 and 57)

ESSB 5325

C 9 L 95 E1

Changing higher education fiscal provisions.

By Senate Committee on Higher Education (originally sponsored by Senators Rinehart, Bauer, Prince, Pelz, Sheldon, Kohl, Drew and Wood).

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

Background: The Washington Legislature has established in statute that tuition will be a percentage of the instructional cost at the public colleges and universities. For a number of years, the percentages were fixed at constant rates, although rates differed between graduate and undergraduate, resident and nonresident, and by type of institution. However, the 1993 Legislature increased the percentages for 1993-94 and again for 1994-95, leading to substantial increases in tuition.

With the increase in tuition as a percentage of cost and a greater reliance on tuition revenue, Washington is similar to other states. Results from a national survey by the American Association of State Colleges and Universities noted that: "The substantial increases in tuition and fee charges for the past two years, and overall for the past decade, indicate a continuing shift in the burden of payment for public education to students and parents." Extra tuition dollars are replacing tax support.

The cost study conducted by the Higher Education Coordinating Board establishes an average instructional cost per full-time equivalent student based on support made available by the Legislature. General fund-state support has been going down. As the state support goes down, so will the tuition. That is what has happened this year. This circumstance has led some people to conclude that the current system for setting tuition in Washington is broken.

Summary: Tuition increases of 4 percent per year are established for the 1995-96 and 1996-97 academic years. The educational cost study is continued but it does not drive tuition. Tuition revenue increases are not offset when making general fund appropriations. Tuition categories are defined. The building fee calculation is clarified. A minimum of 3.5 percent of tuition and services and activities fees is deposited in the institutional loan fund for each institution of higher education, including technical colleges. The results of a cooperative, bipartisan

SSB 5326

study of higher education funding provide the basis for legislative action in 1997.

Votes on Final Passage:

Senate	28	20	
House	51	43	(House amended)
Senate			(Senate refused to concur)

First Special Session

Senate	45	1
House	70	27

Effective: June 14, 1995

SSB 5326

C 248 L 95

Revising provision for registration of sex offenders.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Fairley, Roach, Hargrove, West, Oke and Winsley).

Senate Committee on Human Services & Corrections
House Committee on Corrections
House Committee on Appropriations

Background: Currently, sex offenders convicted under the laws of Washington, another state, or under federal statutes, are required to register with the county sheriff in the county of the person's residence.

Summary: Persons convicted of a sex offense under federal or military law or under the laws of a foreign country are required to register with the county sheriff in the offender's county of residence. A person found not guilty by reason of insanity of a sex offense must register as a sex offender.

Whenever any person required to register as a sex offender moves to another state or a foreign country, he or she must send written notice to the county sheriff with whom he or she last registered.

The term "establishing a new residence" is changed to "moving." A registered sex offender must notify the county sheriff within ten days of moving.

When a person registers as a sex offender, the county sheriff must reasonably attempt to verify that the offender is residing at the registered address.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate	37	0	(Senate concurred)

Effective: July 23, 1995

SB 5330

C 29 L 95

Regulating background checks.

By Senators Smith and Franklin; by request of Washington State Patrol.

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

Background: When a person is applying for employment in which the prospective employee will have unsupervised contact with children or vulnerable adults, the business or organization may, and in some cases must, request a background check of the applicant's criminal record from the Washington State Patrol (WSP). WSP is required to send a copy of the result to both the employer and the applicant.

Approximately 160,000 requests for background checks are sent to the WSP annually. Of these, around 95 percent reveal no criminal record. Under current procedure, notification is sent only to the employer when the applicant has no criminal record.

Summary: After performing a background check of an applicant for employment, the Washington State Patrol is only required to send notice to the employer if the check indicates that there is no evidence that the applicant has a criminal record. The employer must send a copy of the notice to the applicant.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SB 5332

C 46 L 95

Regulating securities.

By Senators Prentice, Hale, Fraser and Winsley; by request of Department of Financial Institutions.

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

Background: In 1993, the Legislature consolidated several responsibilities of the Department of General Administration and the Department of Licensing into the Department of Financial Institutions. The Department of Licensing transferred the Securities Division to the Department of Financial Institutions. The Securities Division regulates securities, franchises, business opportunities, commodities, and other speculative investments.

In 1994, the Department of Financial Institutions began a process of identifying unnecessary regulatory burdens in the regulation of securities. From this analysis, it is recom-

mended that some filing and notice requirements be eliminated from the Securities Act of Washington.

Under the Securities Act of Washington, the director of the Department of Financial Institutions, or an officer designated by the director, has the ability to subpoena witnesses to aid in an investigation. It is suggested that such powers be modified to allow the director or designee to issue subpoenas that would aid other states in securities investigations.

Currently, when there is a violation of the Securities Act, the director has the power to issue a cease and desist order to stop the behavior. However, the director must obtain a court order to mandate an affirmative action, such as returning investor funds.

Summary: The director is permitted to issue subpoenas for other states, if the activity that occurred in the other states also violated Washington's Securities Act.

The director is permitted to include affirmative relief, such as returning an investor's funds, in a cease and desist order.

Various modifications are made to the filing provisions of the Securities Act of Washington.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SSB 5333

PARTIAL VETO

C 307 L 95

Revising regulations for the investment of trust funds.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Long and Johnson).

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

Background: Current Washington law on the investment of trust assets is contained in the Investment of Trust Funds Act. This act contains provisions analogous to the Uniform Prudent Investor Act, drafted by the National Conference of Commissioners on Uniform State Laws.

A committee of the Washington State Bar Association has reviewed existing state law on investing trust assets, in light of the uniform act, and recommends that some modifications be made to state law.

The recommendations primarily reflect a codification of existing case law and a clarification of the statutes.

Summary: The Investment of Trust Funds Act is amended to codify existing case law and to clarify the statutes governing the investment of trust monies.

A fiduciary has a duty to invest trust funds solely in the interest of the beneficiaries and a duty to act impartially in making investment decisions if the trust has more than one

beneficiary. In addition, the fiduciary has a duty to diversify trust assets unless the fiduciary reasonably determines the purposes of the trust are better served without diversification because of special circumstances.

A fiduciary who invests and manages trust funds owes a duty to the beneficiaries to comply with the act. The requirements of the act may be expanded, restricted, eliminated, or otherwise altered by provisions of the trust instrument. "General economic conditions" is added to the factors to be considered in managing the trust assets under the total asset management approach.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: The emergency clause was vetoed.

VETO MESSAGE ON SB 5333-S

May 9, 1995

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 8, Substitute Senate Bill No. 5333 entitled:

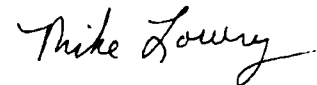
"AN ACT Relating to investment of trust lands;"

This legislation includes an emergency clause in section 8. Although the clarification of the fiduciary's responsibility to trust assets is important, it is not a matter necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions. Preventing this bill from being subject to a referendum under Article II, section 1 (b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For this reason, I have vetoed section 8 of Substitute Senate Bill No. 5333.

With the exception of section 8, Substitute Senate Bill No. 5333 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5334

C 47 L 95

Amending the corporations act.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Long and Johnson).

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

Background: A corporation that is administratively dissolved has up to two years to reinstate itself. There is concern that the law is unclear as to who may reinstate a dissolved corporation. Additionally, concern exists that the two-year reinstatement period is too short, producing a number of negative consequences for unintended dissolutions.

A corporation may be dissolved in a proceeding by a shareholder if the shareholder shows that there is a voting deadlock and the shareholders have failed for at least two consecutive years to elect successive directors.

If a court finds grounds for dissolution, it may dissolve the corporation.

There is no requirement that creditors receive notice of the dissolution of a corporation.

Summary: The reinstatement period for a corporation is extended to five years. Application for reinstatement may be made by either the corporation's shareholders or board of directors determined as of the date of dissolution.

A corporation may be dissolved in a proceeding by a shareholder if the shareholder shows that there is a voting deadlock, the shareholders fail for at least two consecutive years to elect successive directors, and that injury results to the corporation because of the deadlock.

If a court finds grounds for dissolution, it may dissolve the corporation with or without conditions, or grant the remedy that the court finds just.

The Secretary of State must prepare a list of corporations dissolved during the preceding month. The list is to be published monthly in the Washington State Register.

There are also a number of technical changes clarifying, among other things, the definition of "distribution," dissolutions, and rights of transferees.

Votes on Final Passage:

Senate 46 0
House 97 0

Effective: July 23, 1995

SSB 5335

C 48 L 95

Updating uniform commercial code provisions on investment securities.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Smith, Long and Johnson).

Senate Committee on Financial Institutions & Housing
House Committee on Law & Justice

Background: The National Conference of Commissioners on Uniform State Laws (NCCUSL), with representation from every state, develops a number of laws that it recommends to states for enactment. The NCCUSL created the Uniform Commercial Code (UCC), and continually develops amendments to keep pace with commercial practice.

The UCC comprises several articles dealing with such areas as sales, commercial paper, checks and drafts, securities, and secured transactions. The Uniform Commercial Code and recent proposed amendments have been adopted in Washington.

Article 8 of the UCC deals with the issuance, recording, transfer, and security interests in investment securities.

NCCUSL developed major amendments to Article 8 in 1977, which have been adopted in virtually every state, including Washington. These amendments were designed to deal with uncertificated securities. Transfer of paper certificates as evidence of ownership of a security had become extremely cumbersome. It was believed that technology would lead us toward electronic recording of ownership and transfer of interests in securities. The amendments also assumed that ownership and creation of security interests would normally be accomplished by sending instructions to the issuer. Neither of these assumptions proved correct. Almost all publicly traded securities are still issued in certificated form, but they are held in large clearing corporations. Changes in ownership or the creation of security interests occur by changes on the records of these clearing corporations or other financial intermediaries. The largest clearinghouse, the Depository Trust Company (DTC), is the shareholder of record of a high percentage of publicly traded securities. It holds these securities for the benefit of 600 or so broker/dealers and banks. They, in turn, may hold interests for other financial intermediaries in an ownership pyramid which broadens and eventually extends to the beneficial owners.

The principal method for transferring interests in securities today is a system of netted settlement arrangements and accounting entries on the books of a multi-tiered pyramid of securities intermediaries. The basic problem that led to the current proposed amendments to Article 8 is that the current law is keyed to the concept of transfer of physical certificates or the registration of transfers on the books

of issuers, yet that is not how changes in ownership are actually reflected in the modern securities holding system.

Summary: Article 8 now comprises six parts: (1) general provisions; (2) issue and issuer; (3) transfer of certificated and uncertificated securities; (4) registration; (5) security entitlements (a new part); and (6) transition and conforming amendments to other articles.

The revisions acknowledge both the traditional direct holding system of security certificates, including any uncertificated version of a direct holding system that might develop in the future, and the system of intermediary holding that is now widespread.

With respect to the direct holding system, basic concepts and rules are retained. Innocent purchasers are protected against adverse claims by applying some of the principles from negotiable instruments law.

The new part 5 develops new rules specifically designed for the indirect holding system. The approach describes the package of rights of a person who holds a security through a securities intermediary. The concept is labeled "a security entitlement." Part 5 describes the rights and property interests that comprise a security entitlement. The basic rule is that a person acquires a security entitlement when the securities intermediary credits the financial asset to the person's account. The remaining provisions specify the content of the security entitlement concept. For example, financial assets held by an intermediary are not the property of the intermediary, and are not subject to claims of the intermediary's creditors. Responsibilities of intermediaries are defined and rights of security entitlement holders are articulated.

Securities are often pledged as security for loans or other commercial transactions. This creates a security interest in the investment property held by, for example, a lender. Currently, many of the provisions relating to security interests in investment properties are contained in Article 8. Most of these provisions are moved to Article 9, which deals with the whole range of secured transactions law. These changes, along with transition provisions and necessary conforming amendments to other articles, are contained in Part 6.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: July 1, 1995

E2SSB 5342

C 226 L 95

Redefining the program to aid rural natural resources impact areas.

By Senate Committee on Ways & Means (originally sponsored by Senators Snyder, Swecker, Hargrove, Owen, Spanel and Rasmussen; by request of Governor Lowry).

Senate Committee on Labor, Commerce & Trade
Senate Committee on Ways & Means
House Committee on Trade & Economic Development
House Committee on Appropriations

Background: In 1990, Washington's timber supply was dramatically reduced due to federal action limiting harvests on Forest Service lands. This reduction severely impacted the timber industry, resulting in dramatic job losses and economic dislocation throughout numerous rural communities. In an effort to coordinate state assistance to impacted areas, Governor Gardner established the Timber Team. In 1991, the Legislature further refined the Timber Assistance Program and increased state resources. In 1993, the federal administration adopted a new Forest Management Plan, which reduced historical timber harvest levels on Forest Service lands. In addition, \$1.2 billion of federal funds were provided for a five-year program to assist the Northwest's timber dependent communities.

The Timber Team currently operates under a four-part strategy to address the needs of workers, businesses and communities. This strategy includes:

1. **Job Training:** Up to two years of unemployment insurance benefits are provided to dislocated workers who are enrolled in an educational or job training program. On-the-job training is provided through the Departments of Natural Resources, Ecology, and Fish and Wildlife. In addition, placements are provided at community colleges and other higher education Institutions.

2. **Worker and Family Assistance:** State human resources are provided to dislocated workers and families including income support, rent and mortgage assistance, emergency food, medical care, and counseling services.

3. **Economic Diversification:** Funding for public works projects is provided for economic development to empower local people and organizations to undertake economic revitalization initiatives. This includes businesses involved in value added woods products.

4. **Timber Supply:** The team advocates a balanced solution to federal forest management and promotes a ban on state timber exports to help increase supply for in-state processors.

In April 1994, the U.S. Department of Commerce closed the ocean salmon fishing season. The following May, Governor Lowry proclaimed a state of emergency in those affected counties and requested federal assistance. In order to streamline administration, the Governor integrated the state's disaster relief efforts into the Timber Team.

SB 5351

The Timber Team and its assistance programs are scheduled to terminate on June 30, 1995.

Summary: The Timber Team is renamed the Rural Community Assistance Team. The team and its assistance programs are reauthorized with the following modifications:

Salmon Fishing Communities/Focus: In addition to its timber focus, the team is required to address salmon related problems in communities throughout the state. The following list of assistance programs presently available to timber impacted workers and areas are extended to salmon impacted communities.

a. **Extended Unemployment Insurance:** Workers are eligible to receive up to two years of their regular unemployment insurance benefits provided they are in training. An additional 13 weeks of benefits are provided for individuals that are participating in training programs that are expected to last one year or longer.

b. **Public Works Projects:** Impacted communities are given a preference for public works projects funded through the Community Economic Revitalization Board (CERB).

c. **Mortgage and Rental Assistance:** Emergency loans and grants are provided on behalf of dislocated workers who cannot make current mortgage or rental payments.

d. **Community Outreach/Economic Development:** Impacted communities are provided with technical assistance in developing and implementing economic development plans.

e. **Tuition Waivers/Supplemental Enrollment:** Community, upper division or technical college tuition waivers are provided to a limited number of dislocated workers or spouses. Participating colleges receive supplemental enrollment allocations and funds to support direct costs for these students.

f. **Social Services:** Emergency food and medical assistance, crisis intervention, counseling, and child care are provided.

g. **Employment Opportunities:** Funds to employ impacted workers in natural resource based occupations are provided.

h. **Business Assistance Programs:** Gap financing on favorable terms is provided to firms that are creating or retaining jobs. Exporters are assisted with marketing and financing services. Technical assistance is provided to businesses engaged in value added industries.

"Timber impact area" is modified to "rural natural resources impact area," and the definition is changed in order to target community assistance to rural areas.

A study of salmon preservation and recovery efforts and likely impacts on certain industries must be presented to the Legislature by January 1996.

The rural assistance program terminates under the sunset process on June 30, 1998. The Rural Community Assistance Task Force must develop a performance measurement system in consultation with the Legislative Budget

Committee and Washington Performance Partnership. Assessment of the results derived from the performance measurement system must be a component of the sunset review.

Votes on Final Passage:

Senate	48	0	
House	93	2	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 1, 1995

SB 5351

C 49 L 95

Allowing cities to require family day-care provider's home facilities loading areas to be certified by the office of child care policy licensor.

By Senators Wojahn, Winsley, Haugen, McCaslin and Drew.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Cities may not prohibit the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility. Cities may impose a number of requirements on the facility, one of which is that the Department of Licensing certify that the facility provides a safe passenger loading area.

Summary: The Office of Child Care Policy Licensor, rather than the Department of Licensing, certifies that a family day-care facility is providing a safe passenger loading area.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: July 23, 1995

SB 5355

C 78 L 95

Providing for payment of claims for damages caused by deer or elk.

By Senators Drew, Morton and Rasmussen.

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: The state of Washington has traditionally paid claims to people whose property is damaged by state wildlife. These claims have varied from a few hundred dollars to many thousands of dollars. An Attorney General's Opinion in 1994 noted that the statute has been amended on several occasions and is unclear. A present

\$2,000 limit on payments is in statute, yet it is not clear that the \$2,000 is an upper limit.

Because claims above a \$2,000 limit have been paid in the past, the Legislature needs to grant the state of Washington the authority to pay claims over \$2,000 in the interim period, while the claim proposals and the compensation issues are discussed by the Legislature.

Summary: Claims exceeding \$2,000 that are filed under the Wildlife Code and are presented to the Legislature may be paid after they are submitted to the state by the Risk Management Office.

The House and Senate Natural Resources Committees and the Department of Fish and Wildlife must study the issue of damages caused by wildlife and report to the Legislature by December 1, 1995.

The act expires on January 1, 1996.

Votes on Final Passage:

Senate	47	1
House	87	8

Effective: July 23, 1995

SSB 5364

C 15 L 95 E2

Authorizing bonds for transportation projects.

By Senate Committee on Transportation (originally sponsored by Senator Owen; by request of Office of Financial Management).

Senate Committee on Transportation

Background: The 1994 Legislature approved a \$25.0 million general obligation bond authorization to support the public-private transportation initiatives program. The bond proceeds were to be deposited in the transportation fund and debt was to be paid for from the transportation fund.

Concerns have been expressed that debt supported by the transportation fund is subject to both state and constitutional debt limits which are already at or near their maximum allowable levels. Therefore, it has been recommended that the debt incurred to support the public-private initiatives program be supported by the motor vehicle fund instead of the transportation fund, as the motor vehicle fund is not subject to constitutional and state debt limits.

During the 1993-95 biennial period, there were unexpected cost increases in the public-private initiatives program that totalled about \$2.2 million. The Legislative Transportation Committee approved a loan from the Category C construction program to the public-private initiatives program with the understanding that this loan would be repaid from public-private initiatives bond proceeds.

Summary: The bond issue supporting the public-private initiatives program is supported by the motor vehicle fund

instead of the transportation fund in order to avoid the state and constitutional debt ceiling problems.

The bond authorization is increased by \$625,000 to cover the cost of selling the bonds.

A provision is made to reimburse the loan provided by the construction program contained within the Department of Transportation for \$2.2 million for costs incurred by the public-private program in 1993-95 that were not anticipated.

Bond proceeds may be used for incidental costs normally associated with transportation construction projects.

Votes on Final Passage:

First Special Session

Senate	41	5
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Second Special Session

Senate	41	4
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House	64	32
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Effective: June 16, 1995

SSB 5365

C 336 L 95

Revising the uniform disciplinary act.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fairley, Deccio, Wojahn and Winsley; by request of Department of Health).

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

Background: The state's Uniform Disciplinary Act (UDA) of 1984 requires that the state standardize disciplinary procedures for all 47 credentialed health professions. Authority to do this rests with Secretary of Health for 16 professions, and with 21 independent health care boards and commissions. The UDA has been changed over the years to improve consistency and uniformity among the professions in carrying out discipline activities.

Summary: Health care boards and commissions are required to adopt consistent procedures for all disciplinary procedures under the UDA. The secretary must establish time periods for each step in the discipline process including investigations, charges, settlements and adjudications. The role of presiding judges is expanded, allowing them to render final decisions in disciplinary hearings. Alternative forums for dispute resolution are authorized including mediation, arbitration, or prehearing conferences.

Following a complaint investigation, specific procedures must be followed before a physical or mental examination of a professional may be ordered.

The secretary is required to establish a system for recruiting, appointing, and orienting public members to the regulatory boards.

SSB 5367

The secretary is also required to assist in coordinating the development of uniform guidelines to be adopted by the health boards and commissions for treating patients in chronic pain.

The Secretary of Health is established as the disciplining authority for the denturist licensure act. This section takes effect immediately.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	91	0
Senate	44	0

Effective: May 11, 1995 (Sections 2 and 3)
July 23, 1995

SSB 5367

C 50 L 95

Clarifying penalties for failure to obey an officer.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith and Roach).

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

Background: The current motor vehicle code provides that a person shall not wilfully fail or refuse to comply with any lawful order or direction of any duly authorized flagman, police officer, or fire fighter who is directing traffic. It is also unlawful for any driver to refuse, when requested by a police officer, to give his name and address. Although these statutes are specified to constitute crimes, no penalty is established.

Summary: The crime of wilfully failing or refusing to comply with a lawful order of a flagman, police officer or fire fighter is a misdemeanor.

It is a misdemeanor for a driver to refuse to provide his or her name and address when requested by a police officer.

Votes on Final Passage:

Senate	49	0
House	96	1

Effective: July 23, 1995

SB 5369

C 79 L 95

Allowing a majority vote to authorize merger of fire protection districts.

By Senators Haugen and Winsley.

Senate Committee on Government Operations
House Committee on Government Operations

Background: A fire protection district may merge with an adjacent fire protection district. The district desiring to merge with another district is called the "merging district." A petition to merge must be filed by the merging district with the merger district. If the merger district approves the petition, the merging district requests the county auditor to call a special election for the purpose of presenting the question of merging the districts to the voters of the merging district. If three-fifths of the votes cast at the election favor the merger, the respective district boards adopt concurrent resolutions that declare the districts merged under the name of the merger district. Partial mergers between two fire protection districts require only a majority vote.

Summary: The requirement for a supermajority vote to approve a merger of fire protection districts is eliminated.

Votes on Final Passage:

Senate	49	0
House	88	7

Effective: July 23, 1995

SSB 5370

C 30 L 95

Authorizing use of credit cards by local governments.

By Senate Committee on Government Operations (originally sponsored by Senators Hale, Winsley, Haugen and Wood).

Senate Committee on Government Operations
House Committee on Government Operations

Background: In 1984, municipal corporations and political subdivisions were given the authority to allow officers and employees to use charge cards to pay for authorized travel expenses.

The officer's or employee's travel expense voucher must be submitted within ten days of the billing date for the charge card.

Summary: Local governments and political subdivisions have the option of using credit cards for official governmental purchases or acquisitions. Local government is empowered to contract for the issuance of the credit cards. The legislative body of the local

government establishes the credit limits, implements and administers the system. Cash advances are prohibited.

Any system that is adopted is subject to examination by the State Auditor.

The phrase "credit card" is broadly defined.

Votes on Final Passage:

Senate	44	4
House	94	3

Effective: July 23, 1995

SB 5372

C 118 L 95

Appropriating funds for projects recommended by the public works board.

By Senators Sheldon and Wood; by request of Department of Community, Trade, and Economic Development and Public Works Board.

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: The public works assistance account 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, Trade, and Economic 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. Port districts and school districts are not eligible to receive loans through the Public Works Board.

While the board is authorized to make loans, the Legislature must approve the specific list of projects authorized by the board. The Legislature may delete projects from the list but may not add projects or change the order of the project priorities.

The public works assistance account appropriation is made in the capital budget, but the project list is submitted annually, in separate legislation. For the 1993-95 biennium, revenues have increased from \$93.8 million to \$101.5 million. The public works assistance account 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.

Summary: As recommended by the Public Works Board for fiscal year 1995, the following are authorized: loans totaling \$51.9 million and \$494,000 for emergency public works projects. Additional project approval for \$8.4 million is requested, as a result of increased revenue to the fund.

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

(1) 3 bridge projects for a total of \$4,768,800

- (2) 4 road projects for a total of \$3,004,000
- (3) 5 storm water projects for a total of \$2,281,800
- (4) 20 sewer projects for a total of \$25,740,181
- (5) 23 water projects for a total of \$23,895,479
- (6) emergency public works loans: \$494,000

Votes on Final Passage:

Senate	45	0
House	94	0

Effective: April 20, 1995

SSB 5374

C 337 L 95

Creating registered limited liability partnerships.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith and Roach).

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

Background: Under current law there are a number of forms of business association, such as corporations and limited liability companies, in which individuals can pool resources for the benefit of themselves and their customers, but limit their individual liability for negligence or misconduct of their associates or of employees under the direct control of their associates.

For some businesses, the existing forms of association that limit individual liability are impractical or too burdensome. Partnerships are considered an attractive form for conducting business, but there is no limit on individual liability for each partner for the negligence or misconduct of other partners. Partnerships also require a good deal less paperwork to establish and operate than corporations, thus reducing the bureaucratic burden on the partners. In addition, there are some businesses that cannot become limited liability corporations because they have associates in more than one state.

Summary: A new form of business association known as a registered limited liability partnership is created. Two or more persons may become a registered limited liability partnership by applying with the Secretary of State and paying the \$175 application fee. Foreign limited liability partnerships must register with the Secretary of State.

A registered limited liability partnership in which the partners are required to be licensed to provide professional services must maintain a \$1 million liability insurance policy or such higher amount, not to exceed \$3 million, as may be required by the Insurance Commissioner. The Insurance Commissioner must establish the same amount of liability insurance for each partnership of members of the same profession or specialty of any profession.

A partner in a registered limited liability partnership is not individually liable for debts or obligations of the partnership, except for his or her negligent or wrongful acts or

those of a person under his or her control. However, a partner in a professional limited liability partnership is personally liable if the partnership fails to maintain the required liability insurance.

The licensing requirements of members and managers of professional limited liability companies are clarified by providing that a professional limited liability company may operate in this state if: (1) each member personally practicing in Washington is licensed to practice in this state; and (2) at least one manager is licensed to practice in this state, or each member in charge of an office in this state is licensed to practice in this state.

Failure to hold meetings of members or managers and failure to observe formalities pertaining to the calling or conduct of meetings is not considered a factor in piercing the veil of the limited liability company when the certificate of formation and the limited liability company agreement do not expressly require the holding of meetings.

A person may sign any limited liability company document through a valid personal representative.

Provisions relating to events of dissociation and assignment of company interests are amended to provide that a person ceases to be a member of the company when the member dies and upon the entry of a court order adjudicating the member incapacitated, as defined in statute, as to his or her estate.

Conditions for withdrawal of a member are changed, providing that a member may not withdraw from a limited liability company prior to the time for dissolution of the company without the written consent of all other members, unless otherwise specified in the company agreement.

The distribution that a dissociating member or the member's assignee is entitled to receive is amended to be any distribution to which an assignee is entitled.

Two additional criteria are added to the reasons for which a limited liability company may be administratively dissolved by the Secretary of State: (1) if the limited liability company does not pay license fees or penalties when due; and (2) if the limited liability company does not deliver the initial or annual reports when due.

A clarification is made that a foreign limited liability company rendering professional services in the state of Washington is subject to the existing law that requires professional limited liability companies to maintain mandatory liability insurance.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 1995

SB 5378

C 159 L 95

Modifying border area fund distribution.

By Senators Haugen, Morton and Winsley; by request of Department of Community, Trade, and Economic Development.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Three-tenths of 1 percent of funds from the liquor revolving fund (approximately \$170,000/year) are distributed to the Department of Community, Trade, and Economic Development (DCTED) to be allocated to border areas (Blaine, Everson, Friday Harbor, Lynden, Nooksack, Northport, Oroville, Port Angeles, Sumas, and Point Roberts). These funds are distributed under a formula developed by DCTED, by rule, based on border traffic and historical impacts of law enforcement problems caused by the border on local budgets.

It has been brought to DCTED's attention that it is illegally administering this program with federal funds.

Summary: Border area is redefined as any incorporated city or town located within seven miles of the Washington-Canadian border or any point of land surrounded on three sides by water and adjacent to the Canadian border.

The funds and any supplemental resources are distributed to border areas by the State Treasurer, subject to the distribution formula developed by the Department of Community, Trade, and Economic Development. The method used to calculate the distribution formula is clarified in statute: 65 percent ratably based on border area traffic totals; 25 percent ratably based on border related crime statistics; and 10 percent ratably based on per capita law enforcement spending.

The distribution formula may be updated every three years upon request of recipient.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 1, 1995

ESSB 5386

C 266-L 95

Modifying provision of the basic health plan.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Quigley, Franklin,

C. Anderson and Wojahn; by request of Health Care Authority).

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

Background: The Basic Health Plan (BHP) is a state-funded health insurance program that offers subsidized coverage for individuals whose incomes are below 200 percent of the federal poverty level (approximately \$30,000 for a family of four). In addition, unsubsidized enrollment is available for any individual, family or group in the state. The BHP offers coverage for hospital, outpatient and related health services with no deductible and modest co-payments.

The BHP is administered by the Health Care Authority (HCA) which contracts with more than a dozen privately owned and operated managed care health plans. The Health Care Authority has identified several provisions within the authorizing legislation as barriers to more efficient and effective implementation and use of the BHP. In addition, the Washington Health Services Act of 1993 required that the services insured by the BHP must equal the uniform benefits package adopted by the Health Services Commission in July 1995. This legislation, requested by HCA, is intended to remove barriers to more effective implementation of the BHP, and to modify the dates of its transition to the uniform benefits package to comport with delayed implementation of health reform as recommended by the Health Services Commission.

Summary: The list of Basic Health Plan services may include chemical dependency, mental health and organ transplant services as long as their cost does not increase BHP costs by more than 5 percent.

Several references to the uniform benefits package as determined by the Health Services Commission are deleted, as are the requirements that the BHP list of covered services must comport with the uniform benefits package.

The Health Care Authority administrator is authorized to develop a model BHP plan with uniformity in enrollee cost sharing for use by private insurers.

The HCA is authorized to use co-payments, deductibles and other enrollee cost sharing in the design of the subsidized and unsubsidized BHP.

The HCA may base BHP subsidies on the cost of the lowest priced private provider cost for BHP.

The requirement to verify BHP enrollee income is placed under the discretion of the HCA.

The existing requirement that prospective BHP enrollees not relinquish more comprehensive coverage is repealed.

The requirement for employer premium sharing in BHP is changed from 50 percent of premium to an amount equal to the employee share.

No individual provider, carrier or facility must participate in or pay for a specific health service if they have a conscience or religious objection. No person may be de-

nied access to a BHP service because of this. No one may be required to render free service because of someone else's exercise of this conscience clause. The HCA administrator must define a process to accomplish this.

The requirement that BHP use a premium pricing structure substantially equivalent to one used in January 1993 is repealed.

Votes on Final Passage:

Senate	47	0	
House	96	1	(House amended)
Senate	42	4	(Senate concurred)

Effective: July 1, 1995

2SSB 5387

PARTIAL VETO

C 375 L 95

Providing tax incentives for multiple-unit housing in urban centers.

By Senate Committee on Ways & Means (originally sponsored by Senators Wojahn, Winsley, Franklin, Haugen, Rasmussen, McCaslin and West).

Senate Committee on Financial Institutions & Insurance
Senate Committee on Ways & Means
House Committee on Trade & Economic Development
House Committee on Finance

Background: Property taxes are based on the assessed value of real property, including the land itself, and all buildings, structures, or improvements or other fixtures sitting upon such land.

The Growth Management Act established numerous provisions which seek to encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner, thus reducing urban sprawl.

Cities required to plan under the Growth Management Act contend they lack the authority to utilize certain incentives that would encourage the development of urban areas, particularly development that results in additional multifamily housing units in these areas.

Summary: A property tax exemption program for new, rehabilitated or converted multiple-unit housing in urban areas is established. The exemption is good for ten years from the issuance of a tax exemption certificate. The exemption does not apply to the value of land or nonhousing-related improvements or to increases in assessed valuation made on nonqualifying portions of the building or the value of the land. The exemption program is limited to cities with a population of at least 150,000.

The new, converted or rehabilitated housing must meet certain criteria to be eligible for the tax exemption: It is located in a residential targeted area in a city planning under the Growth Management Act; it meets guidelines

established by the local governing authority; at least half of the project space is utilized for permanent housing; and the owner of the property must abide by the terms and conditions of the planned development, set out in a contract with the city.

The local governing authority must designate a residential targeted area. A designated area must meet specific criteria: It is located within an urban center; it lacks sufficient available, desirable and convenient residential housing to meet public demand; and it achieves one or more of the public purposes outlined in the act.

Local governments are authorized to establish standards and guidelines to be utilized in approving applications for the tax exemption.

The application procedures for the program are outlined.

The owner receiving the tax exemption must file an annual report to the city that includes a statement regarding the occupancy and vacancy of the housing units during the past year, verification that ownership of the property has not changed, and a description of changes or improvements made to the property.

Penalties for conversion of the property to other uses prior to the expiration of the ten-year exemption period are outlined.

Votes on Final Passage:

Senate	44	3	
House	85	10	(House amended)
Senate	40	2	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: A redundant provision contained elsewhere in the bill is removed.

VETO MESSAGE ON SB 5387-S2

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 4, Second Substitute Senate Bill No. 5387 entitled:

"AN ACT Relating to taxation of new and rehabilitated multiple-unit housing in urban centers;"

Second Substitute Senate Bill No. 5387 represents an attempt to increase the availability of residential housing in urban areas.

I have concerns with this bill. No provision is included to prevent the erosion of low-income housing as property owners seek the benefit of the special valuation and build new housing or renovate existing housing stocks. Neither is any attempt made to mitigate the impact on low-income tenants who must relocate if their current residence is renovated.

It is clearly the intent of the legislature to provide local governments flexibility in determining specific building requirements to address the public interest in a number of areas related to real estate use and urban development. It is hard to imagine, given the history of the discussions which led to this legislation, that the legislature intended to ignore the pressing need to maintain the state's supply of low-income housing. In signing this bill, it is my expectation that local jurisdictions ensure that the amount of low-income housing is not eroded and that low-income tenants do

not bear the burden of relocating when a property owner enjoys the benefit of the special valuation created by this law.

Section 4 of Second Substitute Senate Bill No. 5387 restates limitations contained in separate sections of the bill. Section 4 limits the use of the special valuations authorized under the act to applicants within locally designated residential targeted areas of cities planning under the Growth Management Act. Section 3(1) limits the definition of a city to a city or town of 150,000 population planning under the Growth Management Act. Section 6(1) requires applicants for the special valuation to be located in a residential targeted area designated by a city. Because the limitations in section 4 are addressed elsewhere, this provision is unnecessary.

For this reason, I have vetoed section 4 of Second Substitute Senate Bill No. 5387.

With the exception of section 4, Second Substitute Senate Bill No. 5387 is approved.

Respectfully submitted,

Mike Lowry
Governor

ESB 5397

C 218 L 95

Revising provisions regulating asbestos certification.

By Senators Franklin and Pelz; by request of Department of Labor & Industries.

Senate Committee on Labor, Commerce & Trade
House Committee on Appropriations
House Committee on Commerce & Labor

Background: Congress has expanded accreditation requirements for all persons who work with asbestos in public and commercial buildings. While Washington State's asbestos certification program is currently fully accredited by the EPA, modifications making the certification program at least as stringent as new EPA requirements are necessary in order to retain accreditation.

Summary: In accordance with federal mandate, inspectors conducting "Good Faith Survey" inspections of construction projects are required to have federally-recognized accreditation. Certified contractors and supervisors are required for all asbestos abatement projects, which are defined as asbestos projects in areas measuring three square feet and three linear feet and greater. In order to become certified, asbestos workers and supervisors are required to complete four- and five-day training programs, respectively. The use of noncertified workers is no longer allowed for any asbestos projects conducted within a facility by its own workers. Department of Labor and Industries rules relating to worker certification standards may only be adopted as specifically required, and only to the extent specifically

required, in order to be in compliance with federal requirements governing this work.

It is also clarified that in cases in which an employer conducts an asbestos abatement project in its own facility and by its own employees, supervision can be performed in the regular course of a certified asbestos supervisor's duties. Asbestos workers must have access to certified asbestos supervisors throughout the duration of the project.

Votes on Final Passage:

Senate	30	19	
House	94	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

SB 5398

C 80 L 95

Removing the filing requirement for expert witness personal service contracts.

By Senators Franklin, Pelz and Wojahn; by request of Department of Labor & Industries.

Senate Committee on Government Operations
House Committee on Government Operations

Background: All personal service contracts are subject to competitive procurement requirements, except for those that fall under any of five categories. One of those categories is emergency contracts. These must be filed with the Office of Financial Management and Legislative Budget Committee within three working days following commencement of the work or of execution of the contract, whichever occurs first.

There are eight categories of contracts that are exempt from compliance with these requirements. Contracts for the employment of expert witnesses are exempt, except they shall be filed within the same time period as emergency contracts.

Summary: Contracts for the employment of expert witnesses for the purposes of litigation retain their exemption from compliance with the requirements for personal service contracts. The filing requirements for emergency contracts are removed.

Votes on Final Passage:

Senate	45	1
House	95	0

Effective: July 23, 1995

SB 5399

C 199 L 95

Refining industrial insurance actions.

By Senators Pelz and Franklin; by request of Department of Labor & Industries.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Compensation paid or awarded by another jurisdiction is presently offset against amounts paid or awarded the claimant by Washington State. Other recoveries made to the claimant under another jurisdiction's workers' compensation laws are sometimes not considered to be compensation and cannot be offset against amounts paid or awarded the claimant by Washington.

Injured workers may seek recovery against third parties other than their employer for work-related injuries. If such recoveries are made, the Department of Labor and Industries may seek reimbursement of amounts recovered by injured workers. The state Supreme Court ruled last year that the department's right to reimbursement does not extend to amounts awarded for loss of consortium.

Current law requires that the Department of Labor and Industries make a retroactive adjustment to an employer's experience rating when a third party recovery was made on a claim which changed the rating.

The department believes that there are several technical changes to the workers' compensation statutes that would improve administration.

Summary: Any settlement proceeds from another jurisdiction are used to offset workers' compensation award payments to claimants in Washington. The Department of Labor and Industries no longer makes retroactive adjustments to an employer's experience rating when a third party recovery is made on claims previously used to calculate experience rating. Health services providers are allowed 60 days to appeal department orders that do not make demands for repayment of sums paid. Orders and notices to withhold and deliver can be served by certified mail, in addition to personal service. The term "recovery" does not include damages for loss of consortium.

Minor technical changes are made to clarify legislative intent with regard to third party settlements.

The award granted a beneficiary upon the death of a worker is changed from \$2,000 to twice the state average monthly wage.

Votes on Final Passage:

Senate	25	23	
House	96	0	(House amended)
Senate	40	2	(Senate concurred)

Effective: July 23, 1995

SSB 5400

C 33 L 95

Providing for reimbursements to the department of labor and industries related to crime victim compensation.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, C. Anderson, Haugen and Winsley; by request of Department of Labor & Industries).

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

Background: The crime victims compensation program is administered by the Department of Labor and Industries and provides financial, medical and mental health benefits to victims of violent crime. Victims are required to seek recovery from other insurance before the crime victims program will pay benefits.

The program is funded by fees, fines and assessments collected by the criminal justice system, and federal grants. Criminal offenders can also be ordered to pay restitution to the department for compensation paid to victims. In order to enhance its ability to seek recovery from offenders, the department has proposed legislation to strengthen its collection procedures. It has also proposed procedures to recover payments made in error, and to address the effect of awards made to victims by private insurance companies.

Summary: The Department of Labor and Industries may issue a notice of debt due and owing to a person who, in a civil or criminal court proceeding, is found to have committed a criminal act that resulted in the payment of benefits. The department may not seek payment for a debt due and owing if it would deprive the victim of any community property.

The notice must be served as in other civil actions and the person served has 30 days to request a hearing. If the person does not respond, the department may seek a default judgment. A judgment obtained under these procedures is enforceable as any other judgment.

An order to withhold and deliver may be served by the department on any person or organization that is believed to be in possession of property owned by a person who is the subject of a judgment for a debt due and owing. The notice must be served personally or by certified mail. The person or organization receiving the notice must respond within 20 days, and is required to deliver any property of the debtor to the department upon demand.

Any payment made by the department that is the result of an error or fraud may be recovered by issuance of an order contending a debt due and owing. The order may be appealed to the Industrial Insurance Board. When the order becomes final, the department may file with the clerk of any county a warrant in the amount of the debt plus interest. The clerk is required to enter the warrant on the execution docket and the debt can be collected by means of execution or garnishment.

Crime victims benefits must be reduced by the amount recovered from insurance, less a proportionate share of attorneys' fees and costs incurred in obtaining the recovery. The department or the victim may request that the court approve of, or determine the reasonableness of, the costs and attorneys' fees. An overpayment of benefits as a result of a victim's insurance recovery may be recovered by the department under the same procedures as for recovery of other overpayments.

If the court in a criminal case fails to enter a restitution order and the victim of the crime receives benefits, the department is required to petition the court within one year of imposition of the sentence for a restitution order. Upon receiving a petition from the department, the court must hold a restitution hearing and enter a restitution order.

Votes on Final Passage:

Senate 46 0
House 97 0

Effective: July 23, 1995

SB 5401

C 81 L 95

Extending deadlines for studies of medical benefits for injured workers under a consolidated health care system.

By Senators Quigley, Winsley, Moyer and C. Anderson; by request of Department of Labor & Industries.

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

Background: The Health Services Act of 1993 required that the Health Services Commission, in coordination with the Department of Labor and Industries, study and report on the consolidated delivery of medical services within the workers' compensation program and other health systems envisioned under health reform. The final report is due in January 1996.

In addition, the 1993 Act authorized the Department of Labor and Industries to conduct pilot projects to test the feasibility of purchasing medical services for the workers' compensation program through managed care, and to report its results by October 1996.

Some of the affected parties feel the report on consolidation would benefit from the results of the pilot projects.

Summary: The final due date for the workers' compensation medical aid and health reform consolidation study is moved to January 1997. The final due date for the pilot project report is moved to April 1997. However, an interim report is required in October 1996, and the projects must end on January 1, 1997.

Votes on Final Passage:

Senate 47 1
House 97 0

Effective: July 23, 1995

SSB 5402

C 160 L 95

Revising provisions related to industrial insurance penalties.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz and Franklin; by request of Department of Labor & Industries).

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: When a successor business notifies the Department of Labor and Industries of its acquisition of a business, the department has 60 days to issue an assessment against the business owner that has quit the business. The Department of Revenue and the Employment Security Department statutes pertaining to successorship allow those departments 180 days to issue their assessments.

It is a crime for employers to knowingly misrepresent their payroll in reports to the Department of Labor and Industries. Because of current collection practices, the statutory reference to misrepresentation of payroll is outdated.

The department believes that certain statutory notice provisions could be streamlined.

Summary: The Department of Labor and Industries is given 180 days to issue an assessment against a former employer and mail a copy of the assessment to the successor. The statutory language pertaining to misrepresentation of payroll is modified to proscribe misrepresentation of employee hours.

The requirement that the service of a notice of assessment by certified mail be accompanied by an affidavit of service by mailing is eliminated. Service of a notice and order to withhold and deliver by certified mail with return receipt requested is authorized.

Industrial insurance benefits are denied to a beneficiary if the beneficiary: (1) deliberately intended the injury or death giving rise to the benefits; (2) engaged or intended to engage in felonious conduct causing the injury or death giving rise to the benefits; or (3) is incarcerated.

The department is directed to annually compile a report on workers' compensation fraud and submit it to the Legislature.

Votes on Final Passage:

Senate	47	1	
House	96	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

SSB 5403

C 200 L 95

Establishing the Washington state horse park.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, A. Anderson, Rasmussen, Prince, Spanel, Morton, Loveland, Swecker, Snyder, Palmer, Owen, Quigley and Roach).

Senate Committee on Ecology & Parks
House Committee on Natural Resources

Background: The state has expressed interest in the concept of a state horse park since the mid-1980s, when a Department of Agriculture study requested by the Legislature recommended creation of a state-owned and operated equestrian center. The Washington State Horse Council began pursuing development of the concept with the State Parks and Recreation Commission in the late 1980s. In 1990, the commission completed a feasibility study of creating a publicly-owned, year-around equestrian facility. The initial site identified for development was property adjacent to Lewis and Clark State Park in Lewis County.

In 1991, the Legislature appropriated \$200,000 to the commission for planning an equestrian center at Lewis and Clark State Park, and also provided funding to the commission through the Washington Wildlife and Recreation Program to begin acquiring parcels adjacent to the park. In 1992, the original site was found to be unsuitable. A site currently under consideration is a few miles from the original site. Part of the area is in private ownership, and part of the proposed site is in state ownership under the management of the Department of Natural Resources.

Summary: The Washington State Horse Park is established, to be located at a site approved by the State Parks and Recreation Commission. Any lands acquired by the commission for the horse park must be purchased through the Washington Wildlife and Recreation Program. It is the intent of the Legislature that the horse park be developed in stages, based on factors such as the availability of funds, equipment, and other materials donated by private sources, the availability and willingness of volunteers to work on park development, and the availability of revenues generated by the park as it is developed and utilized. The Legislature encourages the commission to provide a long-term lease of the selected property at minimal charge to the Washington State Horse Park Authority, with provisions in the lease ensuring public access and use of horse park facilities, provided that the facility remains available primarily for horse-related activities. The Legislature also encourages the county to provide a long-term lease of selected county-owned property for the horse park at a minimal charge.

A private nonprofit corporation called the Washington State Horse Park Authority may be formed to carry out the purposes of this legislation. The authority is responsible

SSB 5406

for development, promotion, operation, management, and maintenance of the horse park. The articles of incorporation for the authority provide for a seven-member board of directors appointed by the Governor. One board member represents the interests of the State Parks and Recreation Commission, one board member represents the interests of the county in which the park is located, and five board members represent the diversity of equestrian interests in the state.

The authority may exercise the general powers authorized for a private nonprofit corporation; however, the authority may not issue bonds. The authority is specifically authorized to hire and fire employees, accept gifts and grants, establish and collect fees, insure its obligations and potential liability, enter into cooperative agreements, and grant concessions and leases at the horse park. All debts of the authority are in the name of the authority and are not debts of the state of Washington.

If the authority and state agencies find it mutually beneficial to do so, they may collaborate and cooperate on projects of state interest. The authority must cooperate with 4-H clubs, pony clubs, youth groups, and local parks departments to provide youth recreational activities. The authority also must provide for preferential use of an area of the horse park facility for youth and people with disabilities at nominal cost.

Votes on Final Passage:

Senate	45	1	
House	95	1	(House amended)
Senate	42	1	(Senate concurred)

Effective: July 23, 1995

SSB 5406

C 249 L 95

Continuing market interest rates for consumer credit transactions.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Sellar and C. Anderson).

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

Background: The Retail Installment Sales Act (RISA) governs the financing of retail purchases in Washington State. RISA divides retail credit into two types of transactions, open-ended and closed-ended transactions.

The primary difference between an open-ended and closed-ended transaction is the existence of restraints on the use of the borrowed money. Open-ended retail transactions generally involve an open line of credit through a revolving account at a particular store. A common type of open-ended retail transaction involves credit cards issued by a retailer that allow a consumer to purchase any goods up to a certain dollar limit. In comparison, closed-ended

transactions involve the issuance of credit by a particular store to enable the consumer to purchase a certain item. An example of a closed-ended account would be a furniture store extending credit to a person to pay for a piece of furniture and allowing the person to repay the credit over a specified number of months.

In 1992, the Legislature removed the interest rate cap on retail installment sales transactions. Before the repeal, the laws governing retail installment sales established the maximum charges collected on certain retail transactions. As such, various formulas applied for computing the maximum charge depending on the type of goods involved and whether the contract involved an open-ended or closed-ended transaction. Currently, the contract rate of interest agreed to by the parties applies to all open-ended and closed-ended transactions.

The repeal of the interest rate cap on retail installment transactions expires June 30, 1995. It is suggested that the expiration of the provision that removes the cap on interest rates should be repealed.

Summary: The expiration of the provision that removes the cap on interest rates is repealed.

The interest rate cap on retail installment sales transactions is repealed.

Courts are authorized to remedy unconscionable retail financing agreements. A charge or practice expressly permitted by the Retail Installment Sales Act is not in itself unconscionable.

This act applies prospectively only.

Votes on Final Passage:

Senate	46	3	
House	94	2	(House amended)
Senate	41	3	(Senate concurred)

Effective: May 5, 1995

ESSB 5408

C 10 L 95 E1

Changing school bus purchasing procedures.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Johnson, Quigley and Long; by request of Office of Financial Management).

Senate Committee on Education

Background: Districts purchase 450 school buses per year. In the 1993-95 operating budget, the Legislature required the Superintendent of Public Instruction to evaluate methods of purchasing school buses.

The study found that the average price for a school bus in Washington was substantially higher than the price of buses in Florida, Kentucky, Nebraska, North Carolina and Texas. These states have state centralized bus purchasing.

Currently, school districts purchase buses, and the state provides replacement funds on a depreciation basis.

Annual payments are made to districts that, when saved by the district, would pay for a new bus. Annual depreciation payments are calculated based on the remaining life of the bus and the state-average purchase price for that category. The state average purchase price is based upon the districts' actual purchase prices in the previous school year adjusted for inflation.

Summary: The Superintendent of Public Instruction, in consultation with regional transportation coordinators of educational service districts, must establish school bus categories and the minimum specifications for each category. The superintendent must obtain price quotes for each category from school bus dealers. The categories must be developed to produce minimum long range operating costs.

The state reimbursement rate is based on the lowest price quote received in each category. Districts may purchase buses from the dealer submitting the lowest price without going to bid. Districts may purchase buses directly from dealers and may conduct their own competitive bid process.

For the purposes of comparative studies, the categories used in the studies must be the same as those in the beginning of the 1994-95 school year.

By December 15, 1996, the superintendent, in consultation with the Legislative Budget Committee, must report on the savings due to using the new method, a comparison of reimbursement rates in the 1994-95 and 1995-96 school years, and the price quotes received by the state compared with the price quotes received by districts.

Votes on Final Passage:

First Special Session

Senate	30	7	
House	83	6	(House amended)
Senate	36	5	(Senate concurred)

Effective: June 14, 1995 (Section 1)
August 22, 1995
September 1, 1995 (Section 2)

SSB 5410

C 82 L 95

Designating the Washington park arboretum as an official state arboretum.

By Senate Committee on Ecology & Parks (originally sponsored by Senators C. Anderson, Rasmussen, Gaspard, Newhouse, Snyder, Bauer, Kohl, Pelz, Fraser, Sellar, Wood and Roach).

Senate Committee on Ecology & Parks
House Committee on Natural Resources

Background: Washington State has a variety of designations symbolizing the uniqueness of the state. Some of these include the state flag, state tree (western

hemlock), state grass (bluebunch wheatgrass), state flower (rhododendron), state fruit (apple), state bird (willow goldfinch), state fish (steelhead trout), state song ("Washington My Home"), state folk song ("Roll on Columbia"), state dance (square dance), and the state seal.

The Washington Park Arboretum, formerly known as the University of Washington Arboretum, is a 200-acre arboretum run by the city of Seattle and the University of Washington. In addition to being an area dedicated to preserving and displaying woody plant species from around the world that can thrive in the Northwest, it is a center for botanical and gardening information.

Summary: Findings are made regarding the importance of arboreta to the state. The Washington Park Arboretum is declared an official arboretum of the state of Washington.

Votes on Final Passage:

Senate	48	0
House	95	1

Effective: July 23, 1995

SSB 5419

C 34 L 95

Modifying federal financial participation related to health insurer's and children's health care.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fairley and Quigley; by request of Department of Social and Health Services).

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

Background: Federal law (OBRA 93) requires certain insurance coverage standards for Medicaid-eligible persons, and children covered by medical child support orders. Under this federal law, the state's Medicaid program, administered by the Department of Social and Health Services (DSHS), faces potential federal fiscal sanctions if it does not comply with federal requirements. Therefore, DSHS and the Office of the Insurance Commissioner have requested changes to state law.

Summary: Insurers, as specified, cannot deny health plan enrollment of a child under the health care coverage of the child's parent on the grounds that the child is receiving Medicaid benefits, or is illegitimate, or was not claimed as a dependent on the parent's federal income tax return, or does not reside with the parent or in the insurer's service area.

Disenrollment of the child is not permitted except in specified circumstances, and insurers are prohibited from taking Medicaid status into account in approving enrollment or in payment of benefits. Coordination of benefits with Medicaid is required, as is the coverage of adoptive children, and the continuation of childhood immunization benefits.

SSB 5421

Votes on Final Passage:

Senate 46 0
House 97 0

Effective: July 23, 1995

SSB 5421

C 250 L 95

Modifying the definition of "vulnerable adult" for background check purposes.

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Fraser).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: All prospective employees and certain volunteers of businesses, organizations, and governmental agencies are subject to background checks if they will have responsibility for the education, training, treatment, supervision, housing, or recreational activities of vulnerable adults.

A vulnerable adult is currently defined as a person 60 years old or older who does not have the functional, mental or physical ability to care for him or herself, or a person who is a patient in a state mental hospital.

Summary: For the purposes of requesting and receiving background checks, the definition of a vulnerable adult is expanded to include all individuals, regardless of age, who lack the functional, mental, or physical ability to care for themselves.

The Washington State Patrol (WSP) is authorized to disclose the results of a background check directly to a developmentally disabled person, a vulnerable adult, or his or her guardian upon request.

"Criminal abandonment" is added to the list of crimes against children or other persons that must be reported by the WSP as part of the background check.

A technical change clarifies that the Department of Licensing is not the disciplining authority for the businesses and professions (other than real estate brokers and salespersons) that are required to report their final disciplinary decisions as part of the background checks.

Votes on Final Passage:

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

Effective: July 23, 1995

SB 5430

C 83 L 95

Regulating the capital and surplus requirements of insurance companies.

By Senators Prentice and Hale; by request of Insurance Commissioner.

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

Background: The Office of the Insurance Commissioner regulates the corporate and financial activities of insurance companies. All companies authorized to conduct business in Washington must meet statutory requirements for capital, surplus capital, reserves, investments, and other financial and operational considerations.

Generally, the states are responsible for the regulation of insurance. The National Association of Insurance Commissioners (NAIC) is an association of state insurance agencies which coordinates the regulation of insurance. The NAIC often develops model laws in order to coordinate such regulations.

For life and disability insurance companies, the Insurance Commissioner is authorized to increase the capital and surplus requirements above those in statute when consistent with methods or requirements adopted by the NAIC, or based on risk-based capital principles of the NAIC. The commissioner has created rules regarding a risk-based capital program for life and disability companies.

Summary: A risk-based capital (RBC) program for life, disability, and property and casualty insurance companies is established by statute. The RBC program is based on the NAIC model.

Every year, each domestic insurance company must file an RBC report. The report must be filed with the Washington Insurance Commissioner, the NAIC, and with the insurance agency of the state where the insurance company is authorized to do business. The report provides RBC rating levels based on a formula and factors developed by the NAIC. The Insurance Commissioner can adjust the RBC report if the commissioner believes the report is inaccurate. The Insurance Commissioner can request that a foreign or alien insurer file an RBC report with the Insurance Commissioner.

If an insurance company's level of capital is less than certain RBC standards based on NAIC formulas, the company must submit a RBC plan to the Insurance Commissioner that describes the problems and contains proposals to resolve them. Other corrective action may be required, depending on the severity of the capital deficiency based on RBC standards.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: July 23, 1995**SB 5432**

C 35 L 95

Regulating unearned premium, loss, and loss expense reserves.

By Senators Prentice and Hale; by request of Insurance Commissioner.

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

Background: The Office of the Insurance Commissioner (OIC) oversees the corporate and financial activities of insurance companies authorized to transact insurance in Washington State. These companies must meet statutory requirements for capital, surplus capital, reserves, investments, and other financial and operational considerations. For instance, the OIC monitors company organization, financial condition, and investments. Important balance sheet items regarding insurance companies include reserves for unearned premiums, losses, and loss expense.

Unearned premium reserves is a deferred income account that represents the premiums insureds have paid in advance for the unexpired terms of their policies. As the policy matures, part of the paid premium becomes earned while the remainder remains unearned. It is only after the period of protection has expired that the whole premium is earned. Current law provides that the unearned premium be calculated based on the unearned premiums in force after deducting reinsurance, a statutory calculation, or a monthly pro rata basis.

Loss reserves are estimates of amounts expected to be paid on claims against the insurance company that apply to an accounting period, even though they may not have been reported to the insurance company. The loss reserves include both the expected cost to pay claims and the expected cost to settle claims. Loss reserves are important financial statement items because some claims may take months or years to complete. Current law provides statutory formulas for establishing reserves for losses and unallocated loss expense for personal liability policies, employer liability policies, and workers' compensation.

The National Association of Insurance Commissioners (NAIC) is an association of state insurance agencies that attempts to coordinate the regulation of insurance, which is done by the states rather than the federal government. One approach the NAIC uses to coordinate state regulation of insurance is the development of model laws.

Summary: Modifications are made to current law regarding reserves insurance companies must maintain for

unearned premiums and losses. The Insurance Commissioner may grant an insurance company permission to use a different method of calculation than specified in statute in order to consider uneven exposure to losses over the policy term. Statutory formulas for loss reserves for personal and employer liability policies are removed. These reserves are computed based on accepted standards and principles, and must be consistent with instructions for annual financial statements by the National Association of Insurance Commissioners. Unallocated workers' compensation loss expense payments must follow the procedures established by the National Association of Insurance Commissioners.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: July 23, 1995**SB 5433**

C 84 L 95

Regulating investments by insurers.

By Senators Prentice, Hale and Fraser; by request of Insurance Commissioner.

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

Background: The Office of the Insurance Commissioner oversees the financial activities of insurance companies. All companies authorized to conduct business in Washington must meet statutory requirements for capital, surplus capital, reserves, investments and other financial and operational considerations.

Allowable investments of insurance companies are regulated by statute and by rule. For example, insurance companies cannot have investments or loans with one person, corporation, institution, or municipal corporation exceeding 4 percent of total assets, except for general obligations of states, the federal government, or certain foreign obligations. Insurance companies can invest up to 10 percent of their assets in corporate stocks. Generally, an insurance company cannot have more than 10 percent of its assets in ownership of its home office and other offices or buildings without the approval of the Insurance Commissioner. The type of investments allowed for capital and reserves is limited, and certain investments are prohibited.

In addition, insurance companies cannot acquire corporate stock if such an investment would result in the insurer directly or indirectly owning a majority of the stock in that corporation.

SB 5434

Summary: The provision that prohibits an insurance company from acquiring a majority of the stock issued by a corporation is removed.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: July 23, 1995

SB 5434

C 338 L 95

Amending licensing requirements of general agents.

By Senators Prentice, Hale and Fraser; by request of Insurance Commissioner.

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

Background: The Office of the Insurance Commissioner licenses agents, brokers, solicitors, and others engaged in the business of insurance. These licenses are for a period of time established by the commissioner. Generally, licenses are valid until revoked, provided fees are paid timely and other requirements are met.

In 1994, the Legislature changed the time period required to pay for license fees. This law requires that license fees be paid every two years instead of annually. The two-year payment period applies to licenses for agents, brokers, solicitors, adjusters, managing general agents, and resident general agents.

Currently, resident general agents renew licenses every March 31 following the date of issue, and pay fees every two years.

Summary: Resident general agents are treated the same as other insurance licensees. These agents are subject to the same renewal schedule as other agents and licensees.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	91	0
Senate	45	0

Effective: July 23, 1995

SSB 5435

C 85 L 95

Restricting limitations in certain medicare policies.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Hale, Fraser,

Franklin, C. Anderson and Kohl; by request of Insurance Commissioner).

Senate Committee on Financial Institutions & Housing
House Committee on Health Care

Background: Medicare coverage is available to persons over the age of 65, persons suffering from end-stage renal disease, or persons who have disabilities. In many cases, insureds covered by Medicare choose to have additional insurance to pay for health care not covered by Medicare. Such additional coverage, called Medicare supplemental insurance coverage, is designed as a program which supplements reimbursements under the Medicare program.

Current law defines a preexisting condition under Medicare supplemental insurance as one where a person sought medical advice or treatment within the last six months. A person with a preexisting condition under Medicare supplemental programs must wait a maximum of six months for such coverage to take effect.

Medicare supplemental insurance companies set different premiums through level entry age rating or community rating. Level entry age rating determines premiums based on the age of the individual when the individual first purchases the Medicare supplemental policy. Community rating sets premiums based on the entire community insured by the Medicare supplemental policies. It is suggested that Medicare supplemental insurance companies should implement a community rating system, where insurers set rates, in two pools, one for those eligible for Medicare because of age, and one for those eligible for Medicare because of a disability or because of end-stage renal disease.

Summary: On or after January 1, 1996, the maximum preexisting condition limitation is three months.

On or after January 1, 1996, full transfer and portability among and between the Medicare supplemental policies with standardized benefit plans B,C,D,E,F, or G are provided without regard to insurability. Transfer is assured between policyholders of plans A,H, I, J from company to company, but strictly from plan to plan. For example, a current policyholder with a plan H from company X can transfer to company Y, but can only be eligible for plan H.

Rates for Medicare supplemental insurance policies must be set only on a community rated basis.

Votes on Final Passage:

Senate	45	0
House	97	0

Effective: July 23, 1995

ESB 5437

C 86 L 95

Disclosing material transactions.

By Senator Prentice; by request of Insurance Commissioner.

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

Background: The Office of the Insurance Commissioner (OIC) oversees the corporate and financial activities of insurance companies authorized to transact insurance in Washington State. These companies must meet statutory requirements for capital, surplus capital, reserves, investments, and other financial and operational considerations. The OIC monitors company organization, financial condition, and investments.

Reinsurance is insurance an insurance company purchases to spread some of its business risk to other companies.

Summary: Material transactions of insurance companies, certified health plans, health care service contractors, and health maintenance organizations must be reported to the Office of the Insurance Commissioner annually (if the information is not reported under other laws). Material transactions are transactions that, during any 30-day period, include an acquisition or disposition that is: (1) non-recurring and not in the ordinary course of business; and (2) involves 5 percent or more of the company's total assets. Material transactions also include nonrenewals, cancellations or revisions of reinsurance agreements if more than 50 percent of the total reinsured written premium is affected.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

E2SSB 5439**PARTIAL VETO**

C 312 L 95

Revising procedures for nonoffender at-risk youth and their families.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Long, Franklin, Smith, Schow, Owen, Moyer, Oke, Strannigan, Gaspard, Snyder, Heavey, Haugen, Rasmussen, Quigley, Wojahn, Loveland, Bauer, Winsley, Deccio, Spanel, Hale, Hochstatter and Palmer).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Children & Family Services

Background: A Special Legislative Juvenile Justice Task Force was created by the Legislature in 1994. The task force was directed to review the juvenile justice laws and recommend changes to those laws to the 1995 Legislature. The Non-Offender Subgroup of the Task Force made recommendations covering four main subject areas including runaway youth, alternative residential placements, involuntary commitment of minors, and youth who are truant or have dropped out of school. Those recommendations were the basis of this legislation.

The main goals of the Non-Offender Subgroup of the Task Force were to: Give the parents increased options for dealing with the runaway, at-risk and truant children; keep families together whenever possible; provide a better structure for protecting children from harmful behaviors; provide children with needed treatment on a more expedient basis; and ensure children receive adequate assessment and reunification services. In accomplishing these goals, the Task Force wished to ensure that children who are abused or neglected receive all necessary protections.

Summary: Police officers are required to take a runaway child back to his or her parents' home or their place of employment as the first alternative. If the parents do not wish the child to remain in the home, they may request the officer to place the child with a relative, responsible adult, or at a licensed youth shelter. The officer must place the child in a crisis residential center (CRC) when the child does not remain at home, is not placed elsewhere, or when there are allegations of abuse. When a runaway child is placed in a CRC, the facility must hold the child for a minimum of 24 hours unless the parent picks up the child.

A process is established to create secure CRCs. Law enforcement officers must take a child to secure CRCs unless they are full, not available, or not located within a reasonable distance. New staffing ratios are set for secure CRCs. The secure CRCs may only be co-located with other secure facilities, including jails or juvenile detention centers, when there is no other practical location. The Department of Social and Health Services (DSHS) must evaluate the different CRCs, develop a plan for establishing secure CRCs, and report to the Legislature.

The CRC must conduct an assessment of each child entering the CRC. The administrator may transfer the child to a CRC located in the area of the child's residence, or to a semi-secure CRC if the child does not pose a risk of running away from that facility. Parents are required to pay up to \$50/day for their child's placement at a CRC.

Police are required to compile information in a central registry on children who have run away from home.

When admitting a child, the CRC administrator is required to request information from DSHS regarding the child's prior history of running away, and the history of any sibling involvement with the department. DSHS must also

provide this information to the court when it files a petition on behalf of the child.

Semi-secure CRCs may serve as temporary out-of-home placement facilities, as long as children who need the facility for a crisis placement are not displaced or denied access.

The department may create multidisciplinary teams (MDT) to assist families in assessment, evaluation, and referral to services. The MDT is mandatory when a CRC administrator reasonably believes a child is in need of services. The MDT may be disbanded by the parents under specified conditions and time frames.

The Alternative Residential Placement petition is replaced with the Child in Need of Services (CHINS) petition. When a youth files a CHINS petition, the parents are immediately notified of the filing and an initial hearing on the petition is held within three court days.

At the initial CHINS hearing, the parents are advised of their rights to file: An At-Risk Youth (ARY) petition; an application with a facility for the involuntary alcohol, substance abuse, or mental health treatment of the child; or a petition for a guardianship. At the initial hearing, the court may enter a temporary out-of-home placement for a period of 14 days, grant an At-Risk Youth petition, or may require the department to review the case for a dependency filing.

At the 14-day CHINS hearing, the court may: (1) reunite the family and dismiss the petition; (2) approve an ARY petition filed by the parents; (3) approve an out-of-home placement requested by the parents; or (4) order DSHS to file an dependency action.

If the court does not take any of the action listed above, it may consider a request of the child or department for an out-of-home placement for up to 90 days. The child or department must show, by clear, cogent, and convincing evidence, that: (1)(a) The order is in the best interest of the family; (b) the parents did not request an out-of-home placement; (c) the parents did not exercise any other right listed above; (d) the child makes reasonable efforts to resolve the conflict; (e) the conflict cannot be resolved by delivery of services in the home; (f) reasonable efforts are made to prevent the out-of-home placement; and (g) a suitable placement resource is available; (2) the parents are unavailable; or (3) the parent's actions cause an imminent threat to the child's health or safety.

The parents or the department may request the dismissal of an out-of-home placement order under specified conditions. The court must terminate the order upon the request of the parent, unless (1) a 14-day CHINS hearing has not yet been held, or (2) the order as entered at the request of the child or DSHS under the higher burden of proof and the court continues jurisdiction under that provision. The child is subject to contempt proceedings for one year.

The court must conduct the initial hearing on an ARY petition within three judicial days. Upon the request and consent of the parents, the court may order an out-of-home

placement for the child. If both a CHINS and ARY petition are filed, they are consolidated as an ARY petition.

The court may order a special disposition, under both the CHINS and ARY petitions, for children who are habitual runaways. When a placement is clearly necessary to protect the child, the court may order the child to be placed, for up to 180 days, in a program that will address his or her behavioral difficulties. The facility must be operated to prevent the child from leaving and may only be used when a less restrictive alternative would be inadequate. Periodic reviews of the placement are required. The court may also order the Department of Licensing to suspend the driver's license of a child who is a habitual runaway. "Habitual runaway" is defined as a child who is absent from home without consent for more than 72 hours on three or more occasions within 12 months, or is absent for more than 30 days.

No court may refuse properly completed and filed CHINS and ARY petitions. Attorney fees and costs may be awarded on appeal from an improperly refused petition. Criminal justice monies may be used for educational materials explaining parental alternatives for dealing with runaway or at-risk youth.

Persons providing shelter to runaway youth are required to notify the youth's parents, law enforcement, or DSHS. The notice is mandated within eight hours from the time the person determines the youth is away from home without the parent's permission. Violation of this provision is a misdemeanor. Persons who comply with the provision are given immunity from civil liability.

The age at which a child may be admitted for involuntary treatment, upon application of the parent, is raised from age 13 (or age 14 for drug or alcohol treatment) to age 18. Consent of the child is not required. The age at which a minor may voluntarily admit himself or herself for treatment of an alcohol or chemical dependency treatment is lowered from age 14 to age 13. The department conducts random reviews of the propriety of youth placed in treatment by the parents.

If a child is admitted to treatment upon application of the parent, the county-designated professionals may review the admission 15-30 days later. DSHS ensures a review is conducted no later than 60 days following admission.

Parents may appeal a decision by a county-designated professional not to commit or recommit their child to involuntary treatment.

School district personnel may not refer a child to a treatment program or provider without providing notice to the parents. Any treatment provider who provides voluntary treatment at the request of a child must provide notice to the parents within 48 hours.

Various provisions are included regarding eligibility for state funding of treatment programs.

If a school district is unsuccessful in reducing a student's absences, the district must file a petition in juvenile court against: (1) a student who has five unexcused

absences in any month or ten unexcused absences in a school year and/or (2) the parents of the student. Parents may file a petition, if the school district fails to do so. There is no fee for filing a petition. The requirements for filing a petition are specified.

The court may hold a fact-finding hearing and must assume jurisdiction for the school year, if the allegations are verified by a preponderance of the evidence. The court may require the parents to do community service in the student's school. Court commissioners and family law commissioners have jurisdiction to hear truancy petitions.

Compliance with truancy laws is shifted from school officials to the school districts, which must submit detailed reports to the Superintendent of Public Instruction. The Superintendent of Public Instruction must report annually to the Legislature. Truancy-related fines are to be distributed as follows: 50 percent to the school district and 50 percent to the courts to enforce the truancy laws.

School districts may create a community truancy board to assist in improving school attendance. School officials and police officers may take a truant child to a program designated by the school district. Secondary schools must adopt a policy specifying any restrictions on students leaving school grounds during school hours. Current truancy provisions are repealed.

At the end of each academic period, a school district must prepare a list of enrolled students who failed to attend school for five school days during the prior 180 school days. If a student is on a current list: (1) a driver training school may not provide instruction to the student; (2) he or she is not eligible to obtain a driver's license; and (3) if the student has a driver's license, the student's driving privileges are suspended for 90 days. The Superintendent of Public Instruction is required to develop all necessary forms related to providing notifications to driver training schools and the Department of Licensing.

The Washington State Institute for Public Policy is responsible for: (1) evaluating the effectiveness of the truancy petition process adopted under the act; (2) developing a statewide definition of excused and unexcused absences; and (3) reviewing a policy of prohibiting school districts from suspending or expelling students as a disciplinary measure for truancy.

Votes on Final Passage:

Senate	42	7	
House	97	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	90	6
Senate	45	1

Effective: July 23, 1995

September 1, 1995 (Section 71)

September 1, 1996 (Section 82)

Partial Veto Summary: The Governor vetoed the following provisions:

The requirement that DSHS evaluate different CRC's, develop a plan, and report to the Legislature;

The requirement that parents pay \$50/day for placement of their child at a CRC;

Allowing CRC administrators to request prior history on a runaway and their siblings;

The special disposition sections for CHINS and ARY petitions directed at habitual runaways;

The criminal penalty for failing to notify the police, parents, or DSHS when sheltering a runaway;

The requirement that schools notify parents when referring a child to a mental health or chemical dependency treatment program;

The requirement that schools record absences for the purpose of limiting driver's training or suspending driver's licenses.

VETO MESSAGE ON SB 5439-S2

May 10, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 9, 30, 31, 33, 35, 38, 50, 51, 55, 57, 59, 64, 76, 77, 78, 79 and 80 Engrossed Second Substitute Senate Bill 5439 entitled:

"AN ACT Relating to revising procedures for nonoffender at-risk youth and their families;"

I commend the legislature for its hard work and bipartisan approach in passing Engrossed Second Substitute Senate Bill No. 5439. This important legislation, which relates primarily to the laws governing at-risk youth and families in conflict, squarely addresses the major problems that have arisen since the enactment of our 1977 Juvenile Justice Act. It empowers parents to help their children when they have run away or when their child's substance abuse or mental health problems place them in serious danger of harming themselves or others. In addition, it establishes a voluntary, community-based process to assist families in conflict, thereby helping to prevent or alleviate such problems as truancy, running away, substance abuse, mental illness, and juvenile delinquency. Further, it compels school districts to address the troubling issue of truancy among their students.

Although I am vetoing certain sections of the bill — some for technical purposes and others for their unintended effects — our goal of supporting parents and protecting our children remains uncompromised.

In signing Engrossed Second Substitute Senate Bill No. 5439, I am confirming the understanding and intent that the criteria specified in section 12(2)(a) apply to and must be satisfied in any and all situations where a youth is to be placed or to remain for any period of time in a secure crisis residential center (CRC) up to the five-day limit specified. Those situations include, but are not limited to, when a youth first appears at a secure CRC and remains for any period of time; when a youth first appears at a semi-secure CRC and is immediately transferred to a secure CRC; or when a youth first appears at or is placed in a semi-secure CRC, at any time during the five-day period.

My reasons for vetoing these sections are as follows:

Section 9 - Parental Financial Contribution

Section 9 requires the parents of a child placed in a CRC to contribute \$50 per day for the expense of the placement. The section also permits the Department of Social and Health Services (DSHS) to establish a payment schedule requiring lesser payment based on parents' ability to pay. The underlying premise

of this section — that parents should shoulder a reasonable proportion of the state's cost for providing care to their children — is something with which I wholeheartedly agree. However, as drafted, this section is inconsistent with federal child support guidelines and may jeopardize our state's receipt of federal funding. Accordingly, I am directing DSHS to collect parental contributions administratively using the current child support system.

Section 30 - Habitual Runaways

Section 30 permits a court, during the disposition phase of an at-risk youth (ARY) or a child in need of services (CHINS) petition proceeding, to make a finding that the child who is the subject of the proceeding is an habitual runaway. The court may place an habitual runaway in a facility with adequate security for up to 180 days to ensure that the child not only remains in the facility, but also participates in programming designed to remedy the child's "behavioral difficulties." To order this disposition, the court must find that the placement is clearly necessary to protect the child and that less restrictive orders would be inadequate. This section also permits the court, as an additional sanction, to order the suspension of an habitual runaway's driver's license for 90 days.

I have several concerns with this section. First, I am concerned about the serious constitutional issue raised by the unusual procedure set forth. This section allows the court to find that a child is an habitual runaway without requiring this allegation to be pled and proved during the fact-finding hearing. This appears to violate the due process rights of youth who would have no opportunity to contest such a finding during a proceeding. The language does not provide a clear understanding of the legislature's intent in establishing this disposition and gives courts almost unlimited discretion in using it. The section allows the court to place an habitual runaway in a secure "facility" that offers programming designed to remedy "behavior difficulties." Unfortunately, these terms are not defined, leaving it unclear what type of secure facilities and programming the legislature intends to make available for habitual runaways. Further, there is nothing in this section that prohibits the court from placing a youth in an out-of-state facility or in a facility program that is not state approved or certified, nothing requiring a court to consider whether the receiving facility has any space available that is appropriate to meet the child's needs, and nothing restricting a court from ordering a 180-day secure placement in cases where the parent has neither sought nor desires such an intrusive action.

Second, this section appears to be punishment-oriented in contrast to the overall focus of the legislation which is more appropriately oriented toward treatment. The section explicitly refers to the ability of the court to suspend an habitual runaway's driver's license as an "additional sanction." This referral suggests that the preceding portion of section 30, relating to 180-day placements, is a sanction as well. By locking up young people as a sanction for running away from home, this section essentially recriminalizes this conduct. Such an effect is clearly contrary to the intent of treating troubled youth, and not punishing runaways.

Third, I am concerned about the fiscal issues relating to this provision. The section currently states that only state funds specifically appropriated for this purpose may be used to pay for these secure placements. If no funds are appropriated, this placement becomes an option only for those parents who can afford it. Even if funds were specifically appropriated, however, the level would likely be insufficient to cover the costs of this expensive disposition. I believe that scarce resources can be better targeted toward the bill's more treatment-oriented provisions.

Finally, I believe this provision is unnecessary in light of the other significant tools provided in this legislation to strengthen parents' ability to protect and help their children. For example, this bill allows the state to briefly hold a runaway in a locked CRC for the purpose of assessing the youth's condition and treatment needs. This brief "hold" period provides parents with the opportunity to reestablish contact with their runaway child (where such contact is not inappropriate) and to obtain services or other assistance that might be helpful in resolving the family

conflict. To assist families who may need services, the bill authorizes the formation of community-based, multidisciplinary teams which are to develop voluntary treatment plans and coordinate referrals.

Parents' ability to maintain the care, custody, and control of their child are strengthened by requiring courts to accept properly filed at-risk youth petitions — the process through which parents may obtain a court order requiring their child to obey reasonable parental authority which includes regular school attendance, counseling, employment, refraining from the use of alcohol or drugs, and participation in a substance abuse or mental health outpatient treatment program. Current law provides that youth who violate these court orders may be found in contempt and placed in confinement for up to 7 days. Parents who wish to place their minor child in an approved substance abuse or mental health treatment program may apply for admission without their child's consent. The bill also permits parents to appeal the decision of a county designated specialist not to commit the parents' minor child for involuntary inpatient treatment and seek court approval of an out-of-home placement for their child for a total period not to exceed 180 days. In light of this diverse and powerful set of tools, section 30 is unnecessary to help parents ensure the protection of their children.

Section 31 - Driver's License Suspensions

Section 31 requires the Department of Licensing (DOL) to suspend a juvenile's driving privileges for 90 days upon receiving an order pursuant to section 30. Because I have vetoed section 30, this section is ineffective.

Section 33 - Placement Review Hearings

Section 33 requires that permanency planning occur when children are placed in out-of-home care pursuant to an order under chapter RCW 13.32A. Specifically, a hearing must be held whenever any child under age 10 has remained in out-of-home care for more than nine months. If a child over age 10 has remained in out-of-home care for more than 15 months, a hearing must be held. At the hearing, the court must determine if the matter should be referred to DSHS for the filing of a dependency petition. In determining whether the case should be referred, the court must also determine if it is in the best interest of the child and family to begin permanency planning.

This section conflicts with existing state law that strictly limits the duration of placements and proceedings under RCW 13.32A. It also conflicts with federal funding requirements for permanency planning for children. Whenever a child is placed in out-of-home care under DSHS supervision, permanency planning begins from the date of placement and continues until the child returns home or some alternative permanency planning goal is achieved.

Section 33 also assumes that a child placed in out-of-home care under RCW 13.32A would remain there indefinitely. However, section 24(1) and (4) of this bill limits the duration of an out-of-home placement under a CHINS petition to a maximum of nine months.

Section 35 - Violation of Shelter Notification as a Misdemeanor Offense

Section 35 makes the violation of the requirements in section 34 of this legislation a misdemeanor. Section 34 requires shelter providers to report the location of a known runaway to the youth's parent, local law enforcement, or DSHS within 8 hours.

Youth shelters play an important role in providing many of our most vulnerable youth with a safe refuge from the streets. While I believe that shelter providers should have to notify DSHS, a parent, or law enforcement of the youth's presence as a way to access appropriate services or to reunite the family, where appropriate, I do not agree with making a violation of this requirement a crime.

In addition, I strongly believe that shelters providing services for vulnerable youth must be licensed to protect their safety and well-being. Yet, despite a law requiring licensure, a number of shelters are not licensed. Accordingly, in an effort to achieve improved compliance with this mandate, I am directing DSHS, in

cooperation with shelter providers or their representatives, to conduct a thorough review of our current licensing requirements and to provide me with recommended changes, including legislative amendments, by September 30, 1995.

Section 38 - Sibling Information

Section 38 requires CRC administrators to request from DSHS the names of the admitting youth's siblings who have been under the jurisdiction of the juvenile rehabilitation administration or who are the subject of a dependency proceeding. In addition, DSHS must provide information on whether the presenting youth has run away multiple times.

Although sibling information may in some cases be useful in assessing the situation of a runaway child, I am troubled by the privacy implications of this section. I understand that some of this information may be confidential and, under current law, cannot be disclosed to the CRC administrator. The laws surrounding confidentiality have posed a number of problems relating to records and information sharing. As a result, several members of the legislature have committed to conducting a comprehensive review of those laws during the interim. I believe that this issue should be addressed as part of that review, with any changes to statute coming after the review is complete. We want to ensure that the privacy interests of siblings and of their families are protected.

Section 50 - Outpatient Drug/Alcohol Treatment: Notice to Parents

Section 50 requires that treatment providers must notify parents within 48 hours that their minor child has voluntarily requested substance abuse treatment.

This section violates federal law governing confidentiality of alcohol and drug abuse records which states that these treatment records may be disclosed only with the consent of the patient or as authorized by law. Where, as in this instance, there would be a conflict between state and federal law, federal law would be controlling. In addition, I am greatly concerned about the chilling effect that this requirement may have on minors seeking treatment for a substance abuse problem — particularly older youth. Therapists and counselors typically seek to involve the parents in a family counseling setting which is a more effective and appropriate means to provide parents such information.

Sections 51 and 57 - Treatment Referrals by School District Personnel

Section 51 and 57 state that school district personnel are not authorized to refer minors to any treatment program or provider without providing notice of the referral to the minor's parent.

The majority of referrals of minors to substance abuse programs across the state come from school districts. From these referrals, many youth receive assistance for their substance abuse problems. This language would have the effect of prohibiting school districts from making these referrals, thereby causing many youth with serious problems not to seek the treatment they need. I do not want to erect any obstacle that would prevent any youth who seeks treatment from obtaining it.

Section 55 - Notice to Parents for Outpatient Mental Health Treatment

Section 55 requires treatment providers to notify parents that their child has voluntarily sought outpatient mental health treatment. I am vetoing this section because of the chilling effect it will have on youth seeking such treatment.

Section 59 - Child Welfare Services

Section 59 includes technical changes to RCW 74.13.031. This section was also substantively amended in Senate Bill No. 5029 which makes changes related to a children's services advisory committee and other changes not properly merged with this section.

Section 64 - Specialized Foster Homes as CRCs

Section 64 deletes the provision permitting specialized foster homes to be used as CRC beds. It also requires DSHS to provide the legislature with a report comparing secure and semi-secure CRCs.

I believe the deletion of specialized foster homes was an inadvertent amendment by the legislature because the bill continues the use of semi-secure CRCs, and specialized foster homes comprise a number of these beds. However, I agree with the legislature that to the extent we use secure CRC beds for a limited purpose, DSHS should report to the legislature on their use. Accordingly, I am directing DSHS to report to the legislature within one year after the initial contracts establishing secure CRCs are established. The report shall evaluate and compare the use and operation, including resident demographics of semi-secure and secure facility CRCs.

Sections 76 through 80 - Truancy

As with the immediately preceding sections of this bill, sections 76 through 80 address the issue of truancy. Sections 76 through 79 attempt to discourage students' unexcused absences from school by denying driving privileges to those students who have substantially failed to carry out their attendance responsibilities.

Section 76 requires school districts, at the beginning of each new academic period, to list those students who in the previous 180 days have substantially failed to carry out their attendance responsibilities. Because I am vetoing sections 77 through 80, which deal with a minor's ability to apply for a driver's license, this section is not necessary.

Section 77 prohibits a student from enrolling in commercial driver's training unless the principal of the minor's school attests that the student is not on the district's list of truant students. Section 78 prohibits the Department of Licensing (DOL) from considering an application of any minor for a driver's license unless DOL is provided with proof that the applicant is not on the particular district's list of truant students. Section 79 requires DOL, upon notification by a school district that the student is on the district's truancy list, to suspend the student's license for 90 days.

While I support the legislature's effort to compel students to attend school regularly, I believe these provisions do not constitute sound public policy. Rather than discouraging students from missing school, I believe these sections could actually encourage students older than age 15, who are not required by law to attend school, to drop-out in order to protect their driving privilege. Thus, the actual effect of these sections could be to increase the number of school dropouts rather than to reduce truancy. Further, section 79 does not require appropriate notice of students' license suspension to parents and also lacks necessary due process in the form of a pre-suspension hearing by the state. Truancy is an extremely important issue as it frequently is an early indicator of other problems. If we are going to address this issue effectively, the whole community must be involved. Truancy is not only the responsibility of our schools. Although the bill compels school districts to take tangible steps to address this issue, it's clearly not the entire answer. Accordingly, I urge the legislature, together with representatives of schools, education organizations, appropriate state agencies and other interested groups, to convene a work group as soon as possible to develop effective recommendations redefining compulsory attendance and truancy within the context of our state's education restructuring efforts and evaluating the critical connection between school attendance, youth violence, incarceration, and related social problems. It is clear that the problems of school attendance continue to be an obvious symptom of youth at-risk; however, other significant factors beyond the classroom should also be considered and addressed to ensure the safety and the quality education of our students.

Section 80 requires the superintendent of public instruction, in consultation with others, to develop necessary forms and procedures for demonstrating that students are not on the school's truancy list. Because I have vetoed sections 76 through 79, this section is not necessary.

For these reasons, I have vetoed sections 9, 30, 31, 33, 35, 38, 50, 51, 55, 57, 59, 64, 76, 77, 78, 79 and 80 of Engrossed Second Substitute Senate Bill No. 5439.

SSB 5440

With the exception of sections 9, 30, 31, 33, 35, 38, 50, 51, 55, 57, 59, 64, 76, 77, 78, 79 and 80, Engrossed Second Substitute Senate Bill No. 5439 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5440

C 87 L 95

Requiring expulsion from school for at least one year for possession of a firearm on school property.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Pelz, C. Anderson, Smith, Gaspard, Quigley, Fairley, Rasmussen, Bauer and Palmer).

Senate Committee on Education
House Committee on Education

Background: Congress enacted the Gun Free Schools Act on October 20, 1994, as part of the Improving American's Schools Act of 1994 (the reauthorization of the Elementary and Secondary Education Act of 1964). Under the Gun Free Schools Act, each state must adopt a law requiring school districts to expel students from school for a minimum of one year if a student has a firearm on school grounds. If a state does not adopt the law by October 20, 1995, the state would lose federal funds provided to the state under the Elementary and Secondary Education Act.

Under current Washington State law, a school district is required to expel a student for carrying a firearm onto school grounds for an indefinite period of time. The length of the period of expulsion varies in different school districts.

Summary: Students carrying firearms on school grounds must be expelled for a period of one year. The federal definition of firearm is incorporated. However, the superintendent of the school district, educational service district, or state schools for the deaf or blind may modify the term of the expulsion on a case-by-case basis. If the student is expelled, the district may provide alternative educational programs. The requirement that a student be expelled must be interpreted in a manner consistent with the laws governing students with disabilities. Specific exemptions are provided for authorized military education, conventions, courses, or rifle competitions.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 23, 1995

SSB 5443

C 251 L 95

Requiring taxing districts to hold hearings about using the authorized amount of property tax.

By Senate Committee on Government Operations (originally sponsored by Senators Drew, Fairley, Quigley, McAuliffe, Hargrove, Haugen, Owen, Rasmussen, Loveland, Smith, Gaspard and Franklin).

Senate Committee on Government Operations
House Committee on Government Operations

Background: A number of taxing districts collect regular property tax levies. They include, but are not limited to: counties; cities; towns; a metropolitan park district; fire protection districts; library districts; hospital districts; flood control zone districts; cemetery districts; park and recreation districts; and emergency medical service districts.

The levy for a taxing district in any year must be set so that the regular property taxes payable in the following year do not exceed 106 percent of the levies for the district in the highest of the three most recent years in which the taxes were levied (plus an increase in value resulting from new construction and improvements to property).

Summary: A taxing district, other than the state, that collects regular levies must hold a public hearing on revenue sources for the taxing district's following year's operating budget. The hearing must include consideration of possible increases in property tax revenues.

Votes on Final Passage:

Senate	45	3	
House	92	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 23, 1995

SB 5445

C 219 L 95

Clarifying responsibility for abandoned vehicles.

By Senators Owen, Sellar and Winsley.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, failure to redeem an abandoned vehicle is a traffic infraction. The last registered owner of an abandoned vehicle is presumed responsible for the vehicle unless there has been a seller's report of sale filed with the Department of Licensing (DOL). In addition to monetary penalties, a person failing to redeem an abandoned vehicle is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. A traffic

infraction for failure to redeem an abandoned vehicle is classified as a moving violation.

Failure to respond to a notice of traffic infraction, or failure to appear at a requested hearing, with the exception of standing, stopping, or parking violations, results in the suspension of all driving privileges by the DOL.

Because failure to respond to a traffic infraction issued as the result of the failure to redeem an abandoned vehicle results in a suspension of the last registered owner's driver's license, the courts have been reluctant to report notices of failure to respond because of due process concerns. The DOL records do not currently cross-reference registered owner records and driver records, so the courts have had no way of ensuring that the proper driver's license will be suspended.

There is also reported confusion among the courts regarding their role in ensuring that restitution is made for the amount of the deficiency remaining after the disposal of an abandoned vehicle.

Summary: Due process concerns are addressed by removing the provision that suspends a license for failure to redeem an abandoned vehicle, and replacing it with the requirement that the issue be adjudicated prior to the issuance or renewal of a driver's license.

The courts' duties are clarified to ensure restitution is made for the amount of the deficiency remaining after disposal by specifying that in addition to any other monetary penalty payable, the court cannot consider all penalties paid until restitution is made in the amount of the deficiency remaining after disposal of an unredeemed vehicle.

A traffic infraction for failure to redeem an impounded vehicle is declassified as a moving violation, but requires reporting to the DOL as a traffic infraction.

In the case of failure to redeem an abandoned vehicle, upon complaint by a registered tow truck operator who incurs costs for removing, storing, and disposing of an abandoned vehicle, a law enforcement officer from the agency directing the impound must attach to the notice of infraction: (1) a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of an abandoned vehicle, less any amount realized at auction; and (2) a statement that monetary penalties for the infraction are not considered paid until the traffic infraction penalty is paid and restitution is made in the amount of the deficiency remaining after disposal of the vehicle.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 23, 1995

E2SSB 5448

PARTIAL VETO

C 376 L 95

Modifying provisions for public water system regulation.

By Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Hochstatter, Sutherland and Winsley; by request of Department of Health).

Senate Committee on Energy, Telecommunications & Utilities

Senate Committee on Ways & Means

House Committee on Agriculture & Ecology

House Committee on Appropriations

Background: Washington has over 14,000 systems that provide drinking water to citizens throughout the state. Over 6,000 of these systems have been added in the past decade, with over 1,300 added in 1993 alone. Proportionate to the number of citizens, this is one of the highest numbers of total water systems among states in the nation. The size of these systems varies greatly, from one that can serve hundreds of thousands of customers to a system that supplies less than 15 connections.

Federal requirements under the Safe Drinking Water Act are in the several-year process of being implemented for many of these water systems. These testing requirements tend to have a much greater financial impact on smaller systems since the costs are spread to a smaller customer base.

The Washington Department of Health (DOH) has a significant role in regulating water systems. These duties include overseeing areas designated as having water supply problems and approving system plans for these critical areas. DOH also oversees a program designating "satellite system agencies" that are authorized to own or manage multiple water systems.

In 1993, DOH convened the Drinking Water 2000 Task Force to review the existing state regulatory program and develop recommendations for the future of regulating public water systems. The task force issued a report in January, 1995, outlining specific recommendations.

Summary: The power to allow the establishment of a new water system within the area of a coordinated water system plan is transferred from the Department of Health to the local legislative authority. DOH is to develop guidelines on conditions for these determinations.

Any new public water system must be owned or operated by a satellite system management agency where one is available. If a satellite system management agency is not available, a new water system must be determined to have sufficient management and financial resources and its approval conditioned on it being owned or managed in the future by a satellite system management agency.

Counties are allowed to adopt abbreviated plans for critical water supply service areas. Additions are made to the required list of considerations for water purveyors that

are required to adopt a critical water supply service area plan. Local legislative authorities may review, approve, and resolve disputes pertaining to service area boundaries in critical water supply service area plans. Funds raised from penalties imposed on public water systems are placed in the safe drinking water account.

Public water systems with fewer than 100 connections are not required to have a certified operator unless DOH determines the system is in significant noncompliance with monitoring requirements or quality standards.

A water supply advisory committee is created to advise DOH on the drinking water program. Committee membership is to include a broad range of interests related to the regulation of public water supplies.

The number of water service connections that can be made to a group domestic use system with an individual well is determined by dividing the maximum daily withdrawal amount of the water right by 400. DOH may approve a greater number of connections based on a factor of less than 400 gallons per day.

A drinking water assistance account is created in the state treasury for the purpose of receiving federal funds made available for safe drinking water. Other potential sources of funds for the account are specified. Moneys in the account may only be used to assist water systems and local governments to provide safe and reliable drinking water and to administer the program. Expenditures from the account may only be made by the Secretary of DOH or the Public Works Board after appropriation. Funds in the public works assistance account may be appropriated for state match requirements on projects funded through the drinking water assistance account.

For the chapter of code regulating the certification of water system operators, a "Group B water system" is defined to mean a system with more than four but less than 15 service connections. Additional conditions are added to the definition based on the number of people served per day or during a limited period within a calendar year.

A provision is deleted that prevents, until July 1, 1996, local governments from administering a separate operating permit requirement for public water systems.

Language is added clarifying that it is a misdemeanor to make an unauthorized connection with a water system of a sewer district or a water district.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)

Conference Committee

House	94	0
Senate	44	0

Effective: July 1, 1995 (Section 9)
July 23, 1995

Partial Veto Summary: The section allowing the number of connections to a water system to be based on an average of 400 gallons per day, per connection, was vetoed. Also vetoed was the section defining a "Group B water system" for the chapter of code regulating the certification of water system operators.

VETO MESSAGE ON SB 5448-S2

May 16, 1995

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 5 and 16, Engrossed Second Substitute Senate Bill No. 5448 entitled:

"AN ACT Relating to public water systems;"

I praise the hard work and commitment of the legislature in passing Engrossed Second Substitute Senate Bill No. 5448 as well as the Drinking Water 2000 Task Force for their recommendations to the legislature to assure that Washington residents continue to have access to safe drinking water.

This bill makes a number of statutory changes to improve operation and management of small drinking water systems, to clarify coordinated water system planning processes and responsibilities, and to enhance local government decision-making regarding water systems—a critical component of local land use planning.

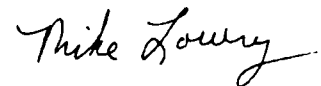
Section 5 of Engrossed Second Substitute Senate Bill No. 5448 attempts to exclude water systems of two, three, or four connections from all state or local regulations. However, the statute amended by this section does not affect the regulatory authority of state or local jurisdictions over these small systems and, therefore, provides incomplete and unclear policy direction.

Section 16 of Engrossed Second Substitute Senate Bill No. 5448 would double the number of connections that can be made to a 5,000 gallon per day exempt well from 6 to 12. The 6 connections now allowed are based on the Department of Health's (DOH) water system sizing criteria. DOH is in the process of reviewing sizing criteria to more accurately reflect the needs of specific water system designs. Arbitrarily increasing the number of connections from 6 to 12 circumvents the process already underway and may have unintended impacts on public water systems.

For these reasons, I am vetoing sections 5 and 16 of Engrossed Second Substitute Senate Bill No. 5448.

With the exception of sections 5 and 16, Engrossed Second Substitute Senate Bill No. 5448 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5463

C 51 L 95

Requiring alcohol servers to have alcohol servers permits.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Newhouse, Prentice and Franklin).

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Currently, individuals who participate in the sale or service of alcoholic beverages at establishments licensed to sell such beverages for on-site consumption are not required to participate in any type of formal training in the service of alcoholic beverages, the effects of alcohol on consumers, or the state laws pertaining to the service of alcohol. The Liquor Control Board (LCB) does provide, on a limited basis, voluntary training of alcohol servers for those establishments requesting such training.

Summary: A mandatory alcohol server training program is established.

Effective July 1, 1996, individuals participating in the sale or service of alcoholic beverages for on-premise consumption must complete a class 12 or 13 alcohol server training program. Managers or bartenders of licensed establishments are required to complete a class 12 training program. Waitpersons serving alcoholic beverages at licensed establishments must complete a class 13 training program. All persons applying for a class 13 permit must view a video training session. Employers must compensate employees for the time spent participating in the class 13 training. Grocery stores and the employees of such stores at which beer or wine is sold for on-premise consumption are exempt from the provisions of the act.

Individuals who successfully complete the required alcohol server training must be issued the appropriate permit by the entity providing the training. The permit is valid for five years. A list of those individuals completing the required training must be forwarded to the LCB.

Liquor licensees are prohibited from hiring individuals involved in the sale or service of alcoholic beverages who do not complete the required alcohol server training.

Conditions under which the LCB may suspend or revoke a server permit are outlined.

The LCB is required to regulate the mandatory alcohol server training program. The subjects to be covered in the class 12 and 13 programs are outlined. Training programs are provided by liquor licensee associations, independent contractors, private persons, or private or public schools certified by the LCB.

The LCB may provide copies of videotaped training programs to liquor licensees at a reasonable cost. The LCB is required to develop a model permit for the class 12 and 13 permits, and may provide these to licensees or training entities for a nominal cost.

Individuals who complete a nationally recognized alcohol management or intervention program after July 1, 1993 may be issued a class 12 or 13 permit upon providing proof of completion of such training to the LCB.

Penalties for violations of the act are outlined.

Votes on Final Passage:

Senate	47	1
House	93	3

Effective: July 23, 1995

ESSB 5466**FULL VETO**

Protecting children from sexually explicit films, publications, and devices.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Oke, Heavey, Winsley and Franklin).

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

Background: Washington law prohibits the sale, distribution, or exhibition of erotic materials to minors. The prohibition applies only to materials which have been determined by a court to be erotic. Erotic materials are those that appeal to the prurient interest of minors in sex, are patently offensive, and are utterly without redeeming social 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 1994, the Washington Supreme Court held that, while the Legislature may regulate speech it considers "harmful to minors," the present statute is unconstitutional because it violates a variety of procedural due process requirements.

Summary: The statutory prohibitions on distribution or display of erotic materials to minors are repealed and replaced with provisions prohibiting the display, sale, or distribution of materials harmful to minors. Material that may be harmful to minors includes written, auditory, and visual materials and live performances that: (1) the average adult person, applying contemporary community standards, would find appeals to the prurient interest of minors; (2) depict conduct that under prevailing adult community standards is patently offensive for minors; and (3) lack serious literary, artistic, political, or scientific value for minors.

Materials that can be harmful to minors include movies, books, sound recordings, magazines, sexual devices, telephonic communications, and coin-operated machines.

A person who knowingly displays, sells, or distributes such material to minors, or presents to a minor a live performance which is harmful to minors is guilty of a gross

misdemeanor. In the case of on-line access to electronic information, materials are not displayed to minors if access is stored in a restricted area or if it is not reasonably possible to restrict access.

It is an affirmative defense to an alleged violation of the act if a parent or guardian of the minor gives permission for the minor to view the material, or a reasonable attempt is made to ascertain the true age of the minor.

All local ordinances relating to harmful to minor statutes must be consistent with the provisions of the act.

Libraries and museums are exempt from the provisions of the act.

“Minor” means a person under the age of 18.

Votes on Final Passage:

Senate	41	6	
House	75	14	(House amended)
Senate			(Senate refused to concur)
House	79	17	(House amended)
Senate			(Senate refused to concur)
House	71	18	(House amended)
Senate	38	7	(Senate concurred)

VETO MESSAGE ON SB 5466-S

May 12, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5466 entitled:

“AN ACT Relating to the well-being of children;”

This legislation represents an effort to distinguish between that which is properly seen and heard by adults and that which should properly be seen and heard by those under 18 years of age - to define whose writings, photographs, devices, recordings and performances that are “harmful to minors.”

No responsible parent or caring person can dispute the propriety of protecting our children from harm. What has become clear, however, is the great disparity in determining from what harm we seek to provide that protection.

Proponents of this bill cite the need to strengthen our response to those who would utilize pornographic material to exploit our children. I wholeheartedly agree with this effort and state again my commitment to craft a bill to achieve this important objective. I will work with the legislature to strengthen the severity and certainty of punishment for those who would even attempt to occasion sexual improprieties upon a child - including dramatically increasing criminal penalties on those who would prey upon innocent victims. That is not what this legislation does.

In an attempt to filter minors’ exposure to certain materials and performances, this bill stands to burden a broad segment of legitimate programs and businesses. Individuals would be forced to block access to what they determined to be suspect material or defend themselves in court. The chilling effect is potentially severe. Retailers, computer on-line services, arts organizations, health care providers, telephone service providers, artists, performers and professionals —especially those whose labors keep them at the fore of technology, medicine or artistic movement — fear they would have to unnecessarily ban minors from their products, services, or displays or prohibit access to certain materials entirely. Those with less resources — including those who confront some of the most difficult issues affecting young people today, such as teen pregnancy and AIDS — for whom review and segregation of materials are simply not feasible and the threat of court battles overwhelming, would simply shut down altogether.


The well-being of our children is not promoted by banning them from art galleries, barring them from a world of instant communication, or hiding them from accurate health care education and information that may save their lives. A community standard cognizant of our children’s well-being is already evident in the marketplace, resulting in retailers’ voluntary use of blinder racks, announcements of adult content, and other methods of establishing barriers to minors’ access to sexually explicit materials. The computer software industry is diligently working to continually improve methods for parents to offer their children controlled computer network access.

If it is harmful conduct we seek to enjoin, then let us work together to bar by any legitimate means those who would cause that harm. If, on the other hand, it is harmful content we wish to censor, then we have much work ahead of us to find a line less egregious than presented by this measure.

I will commit my office over the coming months to seek the guidance of legislators and concerned individuals. We will work together to clarify the intent behind this legislation, to identify the harms we would seek to prevent, and to carefully tailor legislation appropriate to our task.

For these reasons, I am vetoing Engrossed Substitute Senate Bill No. 5466 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SSB 5479

C 52 L 95

Clarifying transfers under the public school open enrollment program with regard to home-schooled students.

By Senate Committee on Education (originally sponsored by Senators Hargrove, Hochstatter and Oke).

Senate Committee on Education
House Committee on Education

Background: School districts may permit the Washington Interscholastic Activities Association (WIAA) to regulate the conduct of interschool athletic and extracurricular activities. The WIAA must submit its rules each year for the State Board of Education’s approval.

The WIAA sets the eligibility requirements for participation in interscholastic activities. Students who are receiving home-based instruction or attend approved private schools may participate in interscholastic activities in the school district where the student resides. A full-time public school student, who transfers to a nonresident school district under the open enrollment laws, must wait one year before participating in interscholastic activities in the nonresident district.

Summary: Students receiving home-based instruction may apply to transfer their registration to nonresident districts. The nonresident district must consider all applications for admission equally, including those from students receiving home-based instruction. Students

receiving home-based instruction are deemed transfer students of the nonresident district.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: July 23, 1995

ESSB 5503

C 220 L 95

Streamlining temporary worker housing safety and health regulations.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Deccio, Pelz, Sellar and Fraser).

Senate Committee on Financial Institutions & Housing
House Committee on Agriculture & Ecology
House Committee on Appropriations

Background: Agriculture in Washington requires a large seasonal work force. Most of the crops are very labor-intensive, with huge peak demands at harvest. Some harvest periods are as short as 11 days. Labor needs vary from one region of the state to another. The Yakima valley has a progression of harvests that might attract migrant workers for a several month stay. The Wenatchee area has fewer crops with a large labor need at cherry harvest time.

While a growing percentage of the farm labor force has permanent homes in Washington, a significant number of workers come from out of state and travel from one harvest to another. Many full-time Washington resident farm workers do not have decent, permanent housing. The demand for farm worker housing far exceeds the available supply. A state-commissioned 1993 study placed the gap at 57,000 beds statewide. Using slightly different methods, the Department of Health determined a 119,000 bed shortage in 1994. This shortage produces unhealthy, degrading living conditions for farm workers. Growers have trouble attracting the stable, healthy, productive work force they need. Some efforts by growers to expand available on-farm housing have led to regulatory confusion and frustration or lawsuits. These sanctions, regardless of the merits, have had a chilling effect on the development of appropriate on-farm housing in recent years.

The problem of how to provide for both seasonal and permanent farm worker housing has proven intractable. In the past decade, several legislative and executive initiatives have failed to produce significant improvement, but perhaps have produced a consensus that the problem is long term and has several component parts that can be tackled individually. During the 1994 interim, the Labor and Commerce and Health and Human Services Committees focused a study on the need for seasonal, on-farm, grower-developed, temporary worker housing. The study consisted of several field tours, and numerous discussions

with growers, workers, and regulators, both in Washington and Oregon.

Summary: The Department of Health is designated as the single state agency responsible for encouraging the development of temporary worker housing.

Temporary worker housing on rural worksites is declared a permitted use for zoning purposes, subject to existing height, setback, and road access requirements.

The Department of Health is given authority to inspect housing covered by these provisions, and to obtain a warrant if permission cannot be obtained.

The Department of Community, Trade, and Economic Development is given authority to contract with private nonprofit entities to provide technical assistance to temporary worker housing developers.

The State Building Code Council is directed to develop a temporary worker housing building code, according to detailed guidelines.

The Department of Health is directed to develop recommendations for incentives for the development of additional temporary worker housing, a streamlined permitting process, appropriate building standards and a compliance strategy.

Board of Health regulations for temporary worker housing may not exceed standards contained in the Washington Industrial Safety and Health Act (WISHA). The board must review all existing temporary worker housing rules within 60 days of the effective date and modify or repeal any rules that exceed WISHA standards.

All agency rules adopted under this act must comply with the federal Migrant and Season Agricultural Protection Act.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 3, 1995

SB 5520

C 53 L 95

Modifying placement of juveniles, specifically addressing independent living.

By Senators Hargrove, Long and Franklin.

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: In Washington State, when a court determines that a child is dependent and is ordered removed from his or her home, the agency responsible for

SB 5523

providing services to the child shall submit a permanency plan to the court.

Title IV-E of the federal Social Security Act provides for states to include independent living as a permanency plan option.

Summary: A permanency plan may include independent living if the child is 16 years or older. The plan must identify the services to be provided for the child's successful transition from foster care to independent living.

To approve independent living, a court must find that the transitional services allow the child to manage his or her own affairs.

The Department of Social and Health Services may not discharge a child under 18 years of age to independent living unless the child becomes emancipated.

Votes on Final Passage:

Senate	45	0
House	96	0

Effective: July 23, 1995

SB 5523

C 221 L 95

Regulating payment of criminal defendants' costs.

By Senators Smith and Johnson.

Senate Committee on Law & Justice
House Committee on Corrections

Background: Under current law, courts may impose certain costs on defendants. In 1993, the Legislature enacted a measure that authorized courts to impose the costs of incarceration against a defendant convicted of a misdemeanor or a gross misdemeanor. The costs may not be imposed if the court has found the defendant to be indigent for the purpose of appointment of counsel. There is concern that an ambiguity has been created regarding whether the court, for the purpose of imposing costs of incarceration, may consider a defendant's ability to pay at the time of incarceration, if it has changed since the time of filing the initial criminal charge.

Summary: Costs of incarceration may not exceed \$50 per day. Other court-ordered financial obligations take precedence over the payment of the cost of incarceration. Money received from defendants for the cost of incarceration must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. The court cannot sentence a defendant to pay costs unless the defendant currently or subsequently is able to pay them.

Votes on Final Passage:

Senate	46	0
House	96	0 (House amended)
Senate	48	0 (Senate concurred)

Effective: July 23, 1995

2ESB 5529

C 11 L 95 E1

Changing school district levy provisions.

By Senators McAuliffe, Rinehart, Moyer, McDonald, Wojahn and Winsley; by request of Office of Financial Management.

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

Background: Since 1978, there has been a statutory limit on school district maintenance and operation levies. This limit is commonly known as the levy lid law. Initially, the lid was set at 10 percent of state basic education funds. School districts having levies in excess of 10 percent were provided grandfather exemptions. Since its inception, the levy lid law has been amended 11 times, with the latest change having been enacted in 1993. The 1993 amendment increased the levy lid from 20 percent to 24 percent for calendar years 1994 and 1995. The limit for grandfathered districts was also increased 4 percent, and the highest authorized levy rate is currently 33.9 percent. In 1996, absent legislative action, the limit will revert to 20 percent, and be reduced 4 percent for grandfather districts.

Summary: The 4 percent levy lid increase is extended for two years (calendar years 1996 and 1997). For levies to be collected in 1998 and thereafter, school boards can only request voter approval for amounts consistent with the 1993 levy rate prior to the 4 percent increase.

Votes on Final Passage:

Senate	37	10
House	79	16 (House amended)
Senate		(Senate refused to concur)
House	78	16 (House amended)
Senate		(Senate refused to concur)
House		(House refused to recede)

First Special Session

Senate	44	2
House	83	14

Effective: August 22, 1995

SSB 5537

C 222 L 95

Changing teacher preparation provisions.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Pelz, Rasmussen, Kohl and Wojahn; by request of Board of Education).

Senate Committee on Education
House Committee on Education

Background: The State Board of Education adopts rules establishing the procedures for becoming a teacher in the

state of Washington. Before entering a teacher preparation program approved by the State Board, applicants who do not at least have a bachelor's degree must successfully pass a basic skills test and have a score equal to the statewide median score on a general skills test. Upon successfully completing the approved teacher preparation program, the person is eligible for initial certification as a teacher.

Teacher candidates are not required to pass an examination before becoming a certificated teacher. The State Board is only authorized to develop an assessment for teacher candidates if the Legislature specifically appropriates funds to cover the cost of developing an assessment.

Summary: Teacher Certification Assessment: A current law that requires a teacher assessment to be developed, if the Legislature provides funds, is repealed. The State Board, by January 1, 1997, must make recommendations to the Legislature on teacher assessment. Any recommendation to implement a teacher assessment must be approved by the Legislature before it is implemented.

Repeal of Miscellaneous Statutes: The following statutes either encouraging or requiring the State Board to take certain actions are repealed: 1) encouraging instruction in child abuse issues in teacher preparation programs; 2) requiring the board to review ways to strengthen cooperative agreements between public schools and institutions of higher education; 3) requiring plans to increase interactions between higher education faculty and K-12 teachers; 4) requiring review of the interstate agreement on the qualifications of educational personnel; and 5) creating an administrator internship task force.

The statute requiring The Evergreen State College and regional universities to establish an extension department for teacher training and in-service is repealed.

Votes on Final Passage:

Senate	23	24	(Senate failed)
Senate	26	22	(Senate reconsidered)
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 23, 1995

SB 5544

C 339 L 95

Concerning the leasing of state shoreline for the exploration of oil or gas.

By Senators Owen, Rinehart, Spanel, Haugen, C. Anderson and Fraser.

Senate Committee on Natural Resources

Background: In 1989, the Legislature established a policy that there would be no leasing of Washington's tidal or submerged lands extending from the mean high tide seaward through the state-owned lands three miles out to

sea along the entire coast of Washington. That prohibition and policy will expire July 1, 1995.

Summary: The July 1, 1995, date is changed to the year 2000 so that the moratorium remains in effect until then.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	43	2	(Senate concurred)

Effective: July 23, 1995

SSB 5551

C 340 L 95

Authorizing special taxation of lodging.

By Senate Committee on Ways & Means (originally sponsored by Senators Sellar and Snyder).

Senate Committee on Ways & Means
House Committee on Finance

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: In a county east of the crest of the Cascade mountains with a population of at least 55,000 but less than 62,000, a city with a population of at least 3,000 but less than 4,000 and a city with a population of at least 1,800 but less than 2,500 may impose taxes not to exceed 3 percent. Revenues from these taxes can only be used for tourism promotion. Based on current populations, Chelan and Leavenworth are eligible to impose these taxes.

In a county east of the crest of the Cascade mountains with a population of at least 55,000 but less than 62,000, a city with a population of at least 22,000 but less than 28,000 may impose a tax not to exceed 2 percent. Revenues from this tax can only be used for tourism promotion, and for the design, expansion, and construction of public facilities related to tourism promotion. Based on current population, Wenatchee is eligible to impose this tax.

In a county east of the crest of the Cascade mountains with a population of at least 28,000 but less than 33,000, a

2ESB 5555

city with a population of at least 3,000 but less than 6,000 may impose a tax under this section not to exceed 2 percent. Revenues from this tax can only be used for tourism promotion, and for the design, expansion, and construction of public facilities related to tourism promotion. Based on current population, East Wenatchee is eligible to impose this tax.

Votes on Final Passage:

Senate	49	0	
House	92	3	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 23, 1995

2ESB 5555

PARTIAL VETO

C 12 L 95 E1

Modifying taxation of massage services.

By Senators C. Anderson, Long, Kohl, A. Anderson, Fairley, Sheldon, Prentice and Moyer.

Senate Committee on Ways & Means

Background: The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. In 1993, the Legislature extended the retail sales tax to massage services.

As a result of the 1993 changes, the business and occupation (B&O) tax classification of massage services changed from service, which was taxed at the rate of 1.5 percent, to retailing, which is taxed at the rate of 0.471 percent.

Initiative Measure No. 601 prohibits, prior to July 1, 1995, any new or increased taxes or revenue-neutral tax-shifts unless approved by the voters at a November general election.

Summary: Massage services are removed from the definition of retail sale. As a result of this change, these activities are no longer subject to the retail sales tax. A new B&O tax classification is created to retain massage services at a rate of 0.471 percent.

Votes on Final Passage:

Senate	48	0	
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First Special Session

Senate	46	0	
House	90	7	

Effective: July 1, 1995

Partial Veto Summary: The new B&O tax classification was vetoed. As a result, massage services will be taxed

under the miscellaneous service classification. This rate is currently 2.09 percent.

VETO MESSAGE ON SB 5555

June 14, 1995

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 and 4, Second Engrossed Senate Bill No. 5555 entitled:

"AN ACT Relating to taxation of massage services;"

Second Engrossed Senate Bill No. 5555 provides that massage services no longer would be subject to the retail sales tax, but would continue to be taxed at the same business and occupation tax rate as retailers.

Massage services were added to the list of services subject to the retail sales tax in 1993. The state further agreed that medically-ordered massage was part of physical therapy services and should remain taxable under the service classification. Massage therapists performing both medically-ordered massage and discretionary massage services were forced to report under two classifications.

Massage therapists have argued since the change in 1993 that they are health care professionals and should be taxed, as are most other health care professionals, under the service classification of the business and occupation tax.

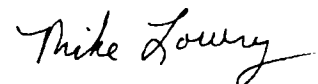
Although the bill orders massage services to be taxed under the new, special rate, it does not end the distinction between medically-ordered massage and discretionary massage.

Thus, in order to return the massage therapists to the tax status they enjoyed prior to the 1993 legislative session, I am vetoing sections 3 and 4 of Second Engrossed Senate Bill No. 5555. This will have the effect of removing massage services from the retail sales tax, making all massage services taxable at a single rate. With this veto, massage services will be taxed under the service and other business and occupation tax.

For these reasons, I have vetoed sections 3 and 4 of Second Engrossed Senate Bill No. 5555.

With the exception of sections 3 and 4, Second Engrossed Senate Bill No. 5555 is approved.

Respectfully submitted,



Mike Lowry
Governor

SB 5563

C 55 L 95

Relating to class H liquor licenses issued to hotels operating conference or convention centers or having banquet facilities on property owned or through leasehold interest by the licensed hotel.

By Senators West, Pelz and McCaslin.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Currently, only organizations servicing events in publicly owned facilities, such as civic centers and community halls, can extend their class H liquor licenses to cover them. Some hotels own convention

centers, ballrooms, and the like, that are extensions of the hotel's hospitality operations. Hotel corporations with facilities that are not located within a hotel can only service these facilities with a class I license, which restricts the storage and delivery of liquor. These hotels may not extend their existing class H licenses to these offsite buildings.

Summary: Class H licensed hotels may extend their license to property owned or controlled by a leasehold interest for use as a conference or convention center or banquet facility. These facilities are open to the general public for special events and must be in the same metropolitan area as the hotel.

Votes on Final Passage:

Senate 46 0
House 92 4

Effective: July 23, 1995

SSB 5567

C 377 L 95

Providing for preservation of single-family residential neighborhoods.

By Senate Committee on Government Operations (originally sponsored by Senator Heavey).

Senate Committee on Government Operations
House Committee on Government Operations

Background: Counties and cities required to plan under the Growth Management Act are required to adopt a comprehensive plan. One of several elements in the comprehensive plan is a housing element which must:

- recognize the vitality and character of established residential neighborhoods;
- include a statement of goals, policies and objectives for the preservation, improvement and development of housing; and
- identify sufficient land for housing.

There is concern that these requirements not only do not adequately protect single-family residential neighborhoods, but increase pressure to rezone established single-family neighborhoods to allow development of apartment buildings and commercial uses.

Summary: A comprehensive plan adopted pursuant to the Growth Management Act must include a housing element. The housing element must:

- ensure the vitality and character of established residential neighborhoods; and
- include a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family housing.

Votes on Final Passage:

Senate 46 2
House 73 21 (House amended)
Senate (Senate refused to concur)
House (House refused to recede)
Senate (Senate refused to concur)
House 70 24 (House receded)

Effective: July 23, 1995

2SSB 5574

C 334 L 95

Concerning the return of state forest board transfer land.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, A. Anderson, Snyder, McDonald, Owen, Long, Rasmussen, Swecker, Heavey, Morton, Deccio, Johnson, Loveland, Hale, Sutherland, Strannigan, Palmer, Moyer, Hochstatter, West, Drew, Haugen, Quigley, Bauer and Roach).

Senate Committee on Natural Resources
Senate Committee on Ways & Means
House Committee on Natural Resources

Background: In the early 1900s, and up through the 1930s, counties took possession of a number of forest land parcels as a result of tax delinquencies. In many cases, the timber had already been harvested from these lands prior to the forfeiture of the property to the counties.

During this same time, the Legislature grew concerned about reforestation in the state. In 1927, and again in 1935, the Legislature determined that forest lands forfeited to the counties should be deeded to the state and become part of state forest lands. Some 540,000 acres of land were thus transferred to state management. These are called forest board transfer lands.

Forest board transfer lands are held and administered by the Department of Natural Resources. The state may not sell these lands; however, the lands may be leased, and timber and other products may be sold. Up to 25 percent of the gross income from leases and product sales goes into the forest development account. The remainder goes back to the county and is distributed in the same manner as general tax revenues are distributed.

Summary: The Legislature directs that the Legislative Budget Committee, in consultation with the Washington State members of the Western States Legislatures Forestry Task Force and the chairs of the Senate and House of Representatives Committees on Natural Resources, conduct a study of the county forest board timber lands.

The study includes the role of the lands in the state's sustained yield calculation and the effect of removing all or part of these lands; the economic and forest practice implications of separating the forest lands from the total lands managed by the Department of Natural Resources, and the effect of a potential transfer on public access, recreation

SB 5575

and management of other private and public lands; and the long-term effects on private timber manufacturing.

The study also includes a comparison of forest management procedures and costs between Grays Harbor County and similar forest board and state trust lands. The Legislative Budget Committee must examine the best possible methods and procedures to transfer the forest board lands to the counties. The report is submitted to the Legislature on December 31, 1996.

Votes on Final Passage:

Senate	45	4	
House	91	3	(House amended)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 23, 1995

SB 5575

C 132 L 95

Allowing persons at least sixteen years of age to make anatomical gifts if a parent or guardian signs the document of gift.

By Senators Sheldon, Gaspard, Moyer, Wood, Finkbeiner and Winsley; by request of Governor Lowry.

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

Background: Adults may donate organs by following a statutory procedure, including a signed and witnessed document of gift.

Summary: Individuals between the ages of 16 and 18 may make anatomical gifts, by following the statutory procedure and by obtaining the signed consent of their parent or guardian. If the consent is not obtained, the gift becomes valid when the individual reaches the age of 18.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: July 23, 1995

SB 5583

C 56 L 95

Determining unemployment insurance contribution rates for successor employers.

By Senators Newhouse, Heavey, Deccio, Hale, Palmer, Franklin, Pelz, Fraser, Prentice, Prince, A. Anderson and

Winsley; by request of Joint Task Force on Unemployment Insurance.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: For unemployment insurance (UI) purposes, a "successor employer" is a legal entity that acquires another business.

If the successor employer had employees at the time of transfer, the new entity's UI tax rate class for the remainder of the year is that of the successor employer. However, tax rates for subsequent tax years will include the wage and benefit cost experience of the combined operation. For example, company A, which has employees, acquires company B. The UI tax class rate for the first year will be company A's.

If the successor employer did not have employees at the time of transfer, it retains the acquired business' (predecessor's) tax rate class until it qualifies in its own right for a UI tax rate. For example, company C, which does not have employees, acquires company D, which has employees. The UI tax rate class for the first year will be that of company D's.

The Joint Task Force on Unemployment Insurance in its 1995 report to the Legislature recommended that successor employers be assigned the lower of two rates: (1) the old business (predecessor) tax rate class, or (2) the average industry rate class.

Summary: A successor employer that did not have employees prior to the acquisition of a firm is assigned the lower of two unemployment insurance tax rates: (1) the old firm's (predecessor's) rate class, or (2) the average industry rate class.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 23, 1995

SB 5584

C 57 L 95

Affecting noncharging of benefits to employers' unemployment insurance experience rating accounts.

By Senators Newhouse, Deccio, Hale, Palmer, Franklin, Pelz, Fraser, Prentice, Prince and Winsley; by request of Joint Task Force on Unemployment Insurance.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Currently, a business that lays off employees for certain specific reasons, primarily when the layoff was beyond its control, does not have its account directly charged for the unemployment insurance (UI)

benefits paid out. These costs are pooled among existing employers. This practice is termed "noncharging."

The Joint Task Force on Unemployment Insurance recommended that noncharging be eliminated when: benefits are paid under a combined wage claim with another state; claimants are participating in certain training programs; claimants fail to successfully complete an on-the-job training program; or receive UI benefits after a period of temporary disability resulting from a workplace related injury or illness.

Summary: Benefits paid to employees of businesses under the following circumstances are now directly charged to the employer's account and may no longer be considered as nonchargeable costs: (1) UI beneficiaries participating in commissioner-approved training; (2) UI beneficiaries participating in timber retraining programs; (3) beneficiaries whom an employer paid under a combined wage claim with another state; (4) beneficiaries that do not complete an approved on-the-job training program; and (5) beneficiaries that are unemployed due to an on-the-job temporary total disability.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: April 17, 1995

ESSB 5592

C 252 L 95

Revising qualifications for coastal crab fishing licenses.

By Senate Committee on Natural Resources (originally sponsored by Senators Spanel and Swecker).

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: As of January 1, 1995, persons fishing for coastal crab in Washington State waters must have either a coastal crab class A or class B fishery license. To qualify for a class A license, a person must have made certain minimum landings into Washington during at least two of four designated qualifying seasons, and held one of an enumerated list of Washington licenses during specified years. Alternatively, a person may qualify by demonstrating a minimum number of landings during specified periods. A coastal crab class A fishery license is transferable and is subject to a transfer fee. A person who does not qualify for a coastal crab fishery license may qualify for a coastal crab class B license if that person can prove certain minimum landings into Washington during at least one of the designated qualifying seasons, and held one of an enumerated list of Washington fishery licenses every year since the year of the qualifying landing. Coastal crab class B licenses are not transferable and cease to exist

after December 31, 1999. Both types of coastal crab licenses have hull length restrictions.

As of January 1, 1995, coastal crab taken in offshore waters (i.e., waters beyond the three-mile territorial waters) may be landed into Washington only if: (1) they were caught by persons holding either type of coastal crab fishery license; (2) they were caught by persons holding Oregon or California commercial crab fishing licenses, were caught during certain times of the year, and were caught using specified gear; or (3) the director determines that landings into Washington by non-possessors of either type of coastal crab license is in the best interest of the coastal crab processing industry and certain conditions are met.

As of January 1, 1995, an Oregon resident is eligible for coastal crab license if: the person made certain minimum landings into Oregon during at least two of four designated qualifying seasons; the person held a nonresident non-Puget Sound crab pot license during certain years; and the state of Oregon grants reciprocal access to its territorial waters to Washington crab fishers.

As of January 1, 1995, a person who holds a coastal crab license may not land into Washington crab taken from the exclusive economic zones of Oregon or California unless that person also holds the license or permit required to land those crab into the state from whose exclusive economic zone the crab were taken.

A review board hears cases involving decisions made by the department regarding either type of coastal crab license. The board has three members: a person representing commercial crab processors, a person who holds a coastal crab license, and a citizen of a coastal community.

Summary: Language is added that clarifies that a person qualifies for a coastal crab class A license if that person designated a qualifying vessel or qualifying replacement vessel after December 31, 1993, on a license that meets certain criteria.

Two additional ways for a person to qualify for a class A license are created: (1) the person landed at least 20,000 pounds of coastal crab per season in at least two of the four designated qualifying seasons, and held one of an enumerated list of Washington licenses during specified years; or (2) the person had a new vessel under construction between December 1, 1988 and September 15, 1992, and landed at least 5,000 pounds of coastal crab with that boat before September 15, 1993.

Votes on Final Passage:

Senate	48	0	
House	88	7	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 23, 1995

ESSB 5597

C 341 L 95

Copying public records.

By Senate Committee on Law & Justice (originally sponsored by Senators C. Anderson, Roach, Smith, Schow, McCaslin, Pelz, Hargrove, Long and Johnson).

Senate Committee on Law & Justice
House Committee on Government Operations

Background: The state Public Disclosure Act (PDA) prohibits state and local agencies from charging a fee for the inspection of public records. Agencies are authorized to impose a reasonable charge for providing copies of public records, and for use of agency equipment to copy public records, but the charge may not exceed the amount necessary to reimburse the agency for "actual costs incident to such copying."

Confusion exists as to exactly what copying costs agencies may be reimbursed for under the PDA. Some agencies charge for staff time to locate, copy, post, and refile the material. Some agencies charge for paper, equipment costs, envelopes and postage. Many agencies do not provide a breakdown of their costs, nor are they required to do so under the PDA.

Additionally, some agencies charge a first page differential for public records (e.g. \$5), with subsequent pages costing much less (e.g., \$.50).

Summary: Unless it creates an undue burden, state and local agencies are required to produce and make available a statement of the actual per page costs and other costs that they charge for providing photocopies of public records. This statement must contain the factors and manner used to determine the costs, if any.

In determining per page costs, agencies may include the cost of the paper and the per page cost of using agency copying equipment. Agencies may not include the costs of staff salaries and benefits, nor may they include general administrative or overhead charges, unless these costs are directly related to actual photocopying costs. If calculating this per page cost is unduly burdensome for an agency, a statutory amount of 15 cents per page is established.

In determining other costs, agencies may include direct shipping costs, such as the costs of envelopes or other containers, and the postage costs or delivery charges.

Agencies are prohibited from charging more than the actual per page costs that they establish and publish, or, if applicable, the statutory limit of 15 cents per page. Agencies are also prohibited from charging fees for locating public documents and making them available for copying.

These provisions do not supersede other statutory provisions specifying fees for copying public records, other than the provisions in the chapter on public disclosure.

Votes on Final Passage:

Senate	46	2	
Senate	40	8	(Senate reconsidered)
House	89	5	(House amended)
Senate	34	13	(Senate concurred)

Effective: July 23, 1995

SSB 5606

C 342 L 95

Providing for use of reclaimed water.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Haugen, Owen, McCaslin, Swecker, Newhouse, Oke, Rasmussen, Winsley, Morton and Schow).

Senate Committee on Ecology & Parks
House Committee on Agriculture & Ecology
House Committee on Appropriations

Background: In 1992, the Legislature found that by encouraging the use of reclaimed water while assuring protection of health, safety and the environment, the state would continue to use water in the best interests of present and future generations. The Legislature encouraged cooperative efforts of the public and private sectors and the use of pilot projects to this end, and directed the Departments of Ecology and Health to develop coordinated procedures for approving uses of reclaimed water.

The agencies were required to adopt a single set of standards, procedures and guidelines by August 1993 for industrial and commercial use of reclaimed water. The Department of Health issues permits to the generator of the reclaimed water, who may distribute the water subject to provisions in the permit governing location, rate, water quality, and purpose of use. The permit may only be issued to a governmental entity or the holder of a water quality discharge permit.

The Department of Ecology was directed to adopt standards for land application of reclaimed water, and issue permits to generators of the water. The permits may be issued to governmental entities and waste discharge permit holders, who may distribute the water subject to permit conditions.

State water quality laws require the Department of Ecology to adopt water quality standards set to protect public health and environmental quality, including fish and other biota. The laws also establish a "nondegradation" standard, requiring discharges to state waters not degrade water quality levels that may exceed water quality standards. The laws also adopt a "technology-based" standard, requiring that, regardless of the quality of the receiving water, all discharges to state waters be subject to all known, available and reasonable methods of water pollution control.

Rules adopted in 1960 require that existing treatment plant effluents eventually be diverted from discharge to Lake Washington and Lake Sammamish to a point or points on Puget Sound. Effluent from all future expansion of treatment plants were also to be diverted.

Summary: The findings statements of the 1992 legislation are expanded to further discuss the uses of reclaimed water, including uses made in other states. The Legislature declares that reclaimed water use is not inconsistent with the state's antidegradation policy regarding state water quality. The Departments of Ecology and Health are to take the necessary steps to encourage the development of water reclamation facilities. Reclaimed water facilities are declared eligible for financial assistance from the Centennial Clean Water Fund.

Reclaimed water may be used for surface spreading, provided it meets ground water recharge criteria, is incorporated into local water or sewer plans, and is approved by the Department of Ecology. Discharge limits for specific contaminants are to be established if the criteria do not contain a standard for the contaminants.

Reclaimed water may be used for discharge to created wetlands provided it meets class A reclaimed water standards and other requirements. Reclaimed water not meeting class A standards may be approved by Ecology for discharge to created wetlands on a pilot basis to test use of such wetlands for advanced treatment. Reclaimed water may be used for streamflow augmentation where federal and state water pollution control laws are met, the use is incorporated into local sewer or water plans, and is approved by Ecology.

Standards for direct recharge using reclaimed water and for discharge to wetlands must be adopted by Ecology in consultation with the Department of Health. The agencies must review potential conflicts between reclaimed water projects and existing rules relating to the Lake Washington basin and propose amendments if required. Deadlines are set for adoption of the standards and proposed rule amendments. The water reuse advisory committee must include water utilities.

Definitions of terms are provided.

Votes on Final Passage:

Senate	46	0	
House	79	9	(House amended)
Senate			(Ruled beyond scope)
House	94	0	(House receded)

Effective: May 11, 1995

SSB 5609

C 58 L 95

Concerning the powers and duties of air pollution control authorities.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Loveland, Rasmussen, Prince, Snyder, Morton, West and A. Anderson).

Senate Committee on Ecology & Parks
House Committee on Agriculture & Ecology

Background: Washington's air pollution control laws allow the "activation" of local air pollution control authorities to administer an air pollution control program within the local area. The local authorities are activated by action of a county or several counties, and the governing body of the authority is composed of local elected officials from the cities and counties for that area. The Department of Ecology administers air pollution control laws in areas of the state without an activated local authority. There are local authorities throughout western Washington and in many counties in eastern Washington.

Permits are required to conduct agricultural burning, to be administered by the Department of Ecology, air quality authorities, or by local governments. Ecology is to establish general criteria for permit issuance of statewide applicability. Rules adopted by Ecology in January of 1995 establish such general criteria by listing the factors that should be considered by local permitting entities, such as meteorological conditions, time of year, size and duration of the burning activity, applicant's need, and type of material to be burned. The criteria do not require seasonal limitations on burning, but also do not prohibit the limitations in local permit programs.

The Spokane County Air Pollution Control Authority (SCAPCA) has adopted agricultural burning restrictions that limit burning to late summer and encourage completion of burning within a 16-day period. The Spokane Authority is considering amending the rules to allow grass seed burning over a 47-day period. The permit issuing agencies in neighboring areas such as Whitman and Adams counties have not adopted such restrictions, but instead rely on weather conditions, particularly wind speed and direction, in determining when such burning may be permitted. Segments of the grass seed industry in Spokane contend that the SCAPCA limitations are unduly restrictive when compared to these nearby areas and that uniform restrictions should apply.

Summary: Local air authorities administering the agricultural burning permit program must not limit the

ESB 5610

number of days of allowable burning, but may consider other criteria such as weather conditions.

Votes on Final Passage:

Senate	44	0
House	96	0

Effective: July 23, 1995

ESB 5610

FULL VETO

Penalizing false accusations of child abuse or neglect.

By Senators Smith, Deccio, Oke, Winsley, Roach and Schow.

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

Background: In domestic relations proceedings relating to a parenting plan or child custody, allegations of child abuse or neglect often result in lengthy hearings and increased attorneys' fees. It has been suggested that sanctions should be provided for making knowingly false accusations of child abuse or neglect.

Summary: Civil and criminal penalties are established for intentionally making a false allegation of child abuse or neglect during the course of proceedings relating to a parenting plan or child custody.

If the court finds that a person intentionally makes a false allegation of child abuse or neglect, or induces another person to make a false allegation, the court may impose a monetary penalty of up to \$1,000 against the person making, or inducing another to make, the allegation. The court may also order the person to pay reasonable attorney's fees incurred in recovering the penalty. The penalty is in addition to any other remedy provided by law. This provision does not apply to unemancipated minors.

In a proceeding relating to a parenting plan, a court finding that a parent knowingly made false accusations results in a presumption that the parent's residential time with the child should be limited.

A person who intentionally makes a false accusation of child abuse or neglect, or induces another person to make a false allegation, is guilty of a class C felony. The false allegation must be made during a proceeding related to a parenting plan or child custody.

Votes on Final Passage:

Senate	45	0	
House	91	4	(House amended)
Senate	46	0	(Senate concurred)

VETO MESSAGE ON SB 5610

May 16, 1995

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. 5610 entitled:

"AN ACT Relating to false allegations of child abuse or neglect;"

Engrossed Senate Bill No. 5610 creates civil and criminal penalties for persons making, or inducing others to make, false allegations of child abuse or neglect during the course of a proceeding relating to a parenting plan or child custody. Such false allegations are a serious matter and an issue worthy of legislative attention. However, this bill broadly duplicates and expands current law, imposing penalties which are out of proportion to the problem.

The civil fines and penalties provided in section 1 of this legislation may be applied to witnesses as well as parties and attorneys. Because the court has no jurisdiction over witnesses, such an imposition will result in additional proceedings in an already overcrowded court system. Regrettably, this penalty could be used by unscrupulous litigants as a tool to intimidate or harass mental health counselors, guardians ad litem, and other witnesses. We must not allow such actions to increase the risk of harm to our state's children or to increase the potential of individuals remaining silent out of fear.

Section 2 of Engrossed Senate Bill No. 5610 establishes a presumption that a parent's residential time with a child should be limited if it is found the parent has made false allegations of abuse or neglect. This is duplicative of the limiting provisions relating to the abusive use of conflict in RCW 26.09.191. A pattern of abusive use of conflict may, in the court's judgment, be an appropriate reason to limit the time a parent may spend with a child. A single false allegation, however, does not rise to the same level of magnitude and is not fairly a reliable indicator of a person's parenting ability.

Section 3 of the bill provides that an individual who knowingly makes, or causes another to make, a false allegation of abuse or neglect is guilty of a Class C felony. Such a penalty is an unduly severe remedy for a situation adequately addressed under current law. The change from the current punishment of up to 90 days in jail and a \$1000 fine to confinement for up to 5 years and a \$5000 fine is unwarranted and repressive.

We should respect the discretion and ability of our family court judges to use the tools already at their disposal rather than risk the intimidation of those who would otherwise bring concerns or allegations to the attention of the court.

For these reasons, I have vetoed Engrossed Senate Bill No. 5610 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

ESB 5613

C 253 L 95

Revising the provision authorizing the department of labor and industries to hold industrial insurance orders in abeyance.

By Senators Pelz, Franklin, Hargrove, Snyder, Fraser, Bauer, McAuliffe, Smith, Prentice, Heavey and Rinehart.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Workers, employers, and other parties aggrieved by Department of Labor and Industries' industrial insurance orders are entitled to request reconsideration of an order before appealing to the Board of Industrial Insurance Appeals. The request must be submitted within the time limit specified for appealing the order to the board, but there are no other time limits governing the request for reconsideration.

If the Department of Labor and Industries acts within certain time limits, the department may, on its own motion, hold an industrial insurance order in abeyance for up to 90 days to reconsider the order. For good cause, the department may extend the time period for an additional 90 days.

If the worker has filed an application to reopen a claim, the department must issue an order denying the application within 90 days of receiving the application. If the order is not issued within the time period, the application is deemed granted. This 90-day period may be extended 60 days for good cause.

In 1993 the Washington Supreme Court determined that these two time periods operate independently. In the case before the court, the department had issued an order denying an application to reopen a claim and had then placed the order in abeyance. The court held that once the department has issued an order denying a reopening application within the applicable time period, the time limits for making the initial decision on the application are satisfied. The department may then hold the order in abeyance for reconsideration for up to 180 days.

Summary: The Department of Labor and Industries' authority to reconsider an industrial insurance order for up to 180 days after the order is placed in abeyance is modified. If the order concerns an application to reopen a claim, the time period for reconsideration may not exceed 90 days from the date that the application is received. The

department may extend this period for an additional 60 days for good cause. The department must promptly mail a copy of the application to the employer at the employer's last known address as shown by the records of the department. Good cause includes delay that results from a claimant's refusal to submit to medical examination. Reopening applications that are deemed granted by statute may not be held in abeyance.

Technical changes are also made to clarify and reorganize the statute.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

ESSB 5616

C 378 L 95

Establishing a single-application process for watershed restoration projects.

By Senate Committee on Natural Resources (originally sponsored by Senators Gaspard, Sellar, Haugen, Hochstatter, Drew, A. Anderson, Swecker, Newhouse, Deccio, Rasmussen, Winsley and Morton).

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: In 1994, the Legislature adopted a major watershed planning program and appropriated funds for watershed restoration projects.

Summary: The Legislature declares that the goal of the state of Washington is to preserve and restore the natural resources of the state, in particular fish and wildlife, and to improve their habitat. It is the intent of the Legislature to minimize the expense and delays caused by unnecessary bureaucratic processes in securing permits for projects that preserve or restore native fish and wildlife.

By January 1, 1996, the Washington Conservation Commission must develop a single application process by which all permits for watershed restoration projects may be obtained by a sponsoring agency for a project developed by that agency. Each agency designates an office or official as a designated recipient of project applications and informs the Conservation Commission of the designation. All agencies of state and local government must accept the single application developed by the commission. Permits required for watershed restoration projects developed with a watershed restoration plan must be processed in an expedited manner. Those permits and permit requirements include comprehensive planning by county planning commissions, permits for planning and zoning, the Growth Management Act, State Environmental Policy Act, the hydraulics code, the Shoreline Management Act, and the

SB 5625

Water Quality Act. The permit coordination program of the proposed GMA-SMA regulatory reform bill may also be used, as can other types of coordinated permit arrangements.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

SB 5625

C 59 L 95

Clarifying hunting license requirements.

By Senators Haugen, Drew, Oke and Rasmussen.

Senate Committee on Natural Resources

House Committee on Natural Resources

Background: Migratory waterfowl hunters must purchase a new hunting license in order to hunt for migratory waterfowl in the month of January in areas that have January waterfowl hunting seasons.

Migratory waterfowl stamps are valid for the entire waterfowl season, and waterfowl hunters would prefer to have one hunting license be valid for the entire season.

Summary: A hunting license is valid for the year following its issuance for use in January waterfowl seasons.

Votes on Final Passage:

Senate	46	0	
House	96	0	

Effective: July 23, 1995

ESSB 5629

C 254 L 95

Updating new motor vehicle warranty provisions.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz, Fraser, Rinehart and McCaslin; by request of Attorney General).

Senate Committee on Labor, Commerce & Trade

Senate Committee on Ways & Means

House Committee on Commerce & Labor

Background: The Motor Vehicle Warranty Act, also known as the Lemon Law, establishes the rights and responsibilities of consumers, dealers, and manufacturers of new motor vehicles. Original owners and some subsequent owners are protected by the act. If a consumer has a defective new motor vehicle, that person writes to the manufacturer requesting repair. The manufacturer has a

certain amount of time to try to fix the problem. If the problem cannot be fixed, the manufacturer must replace or buy back the motor vehicle. If the vehicle is bought back, the consumer is entitled to a refund of the purchase price, collateral charges such as sales tax or unused registration fees, and incidental costs, less a reasonable offset for use. A manufacturer may resell certain motor vehicles that it had to buy back.

The act also allows a consumer to request arbitration. An arbitration board may award the same remedies as those available to a consumer whose car was bought back by the manufacturer, as well as attorney fees. An arbitration board's decision may be appealed to superior court.

Summary: A number of refinements are added to the Motor Vehicle Warranty Act. The definition of "fleet vehicles," which is not covered by the act, is clarified. Definitions of the "purchase price" of purchased and leased cars are revised, and include trade-in allowances, but not manufacturers' rebates. Manufacturers' and dealers'/lessors' duties to provide warranty information to consumers are clarified.

Consumers are entitled to "incidental costs" of repair if a manufacturer replaces a vehicle. The amount of offset is revised.

There are new disclosure requirements for a manufacturer who resells a vehicle it buys back from a consumer.

The procedure by which documents and records may be obtained in anticipation of arbitration is changed. When a manufacturer is notified of a request for arbitration, it must identify the issues and affirmative defenses to the consumer and the arbitration board. Circumstances under which the board may award attorney fees to a consumer are clarified. A new section is added establishing the obligations of both the consumer and the manufacturer when complying with the board's decision. Noncompliance by a consumer in response to a manufacturer's offer of compliance is a rejection of the award.

The arbitration fee paid by consumers of new motor vehicles is changed from \$5 to \$3.

The Department of Licensing is authorized to provide the vehicle title history to a current owner who is pursuing rights under the act.

There is a standard severability clause.

Votes on Final Passage:

Senate	47	1	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: May 5, 1995

SB 5630

C 19 L 95

Limiting nonconsensual common law liens.

By Senators Cantu and Haugen; by request of Attorney General.

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

Background: Existing law provides that liens against real and personal property that are not provided by statute, imposed by a court, or agreed to by the parties generally are not recognized or enforceable. Such liens are often referred to as nonconsensual common law liens. Recording officers are not required to accept or disclose such liens.

Nonconsensual common law liens are often filed against the property of elected officials and public employees by persons who do not agree with the manner in which the officials or employees are performing their duties. For example, liens have been filed against judges because of adverse court rulings, and against legislators for "failing to uphold their oath of office."

The Attorney General's office, in consultation with other governmental entities, is proposing that the statute be modified to provide an easier method of removing the liens and allowing government entities to recover the cost of dealing with these types of liens.

Summary: The nonconsensual common law lien statute is revised to clarify the invalidity of such liens, and to make it easier for public officials and employees to remove nonenforceable liens from their property.

A person subject to a common law lien may petition a superior court to direct the person filing the lien to appear in court to determine the validity of such a lien. If the person fails to appear, the court may release the lien and require the payment of costs and attorneys' fees. If a hearing is held on the validity of the lien, the prevailing party is entitled to costs and attorneys' fees.

The attorney for a person subject to a lien is authorized to file with the recording officer a notice of invalid lien.

Votes on Final Passage:

Senate	47	1
House	91	5

Effective: July 23, 1995

E2SSB 5632**PARTIAL VETO**

C 402 L 95

Providing for flood damage reduction.

By Senate Committee on Ways & Means (originally sponsored by Senators A. Anderson, Drew, Owen, Hargrove, Swecker, Morton, Hale, Haugen, Finkbeiner,

Strannigan, Moyer, Palmer, Johnson, Quigley and Rasmussen).

Senate Committee on Natural Resources
Senate Committee on Ways & Means
House Committee on Agriculture & Ecology
House Committee on Appropriations

Background: Responsibility for flood hazard prevention and management is divided between a number of agencies and jurisdictions. Locally, counties may adopt comprehensive flood control management plans on an optional basis, to establish a scheme for flood control protection. County plans may apply to cities and towns, or cities and towns may adopt their own plans.

The Department of Ecology has the authority to approve or reject designs and plans for any structure to be erected upon the banks, in the channel, or in the floodway of any stream or body of water. The Department of Ecology also provides technical assistance to local governments in the development of flood plain management ordinances, and reviews and approves these ordinances.

The Department of Fisheries has the responsibility to provide hydraulic project approval for any project that would use, divert, obstruct, or change the natural flow or bed of any waters of the state. Protection of fish life is the only grounds upon which approval may be denied or conditioned. The Department of Fisheries has also established rules regulating work within the waters of the state.

The Department of Natural Resources has authority over aquatic lands. The department has established rules governing use or modification of any river system.

Concerns have been raised that the lack of a coordinated state flood control policy makes it difficult to obtain permits for flood protection projects.

Summary: Reducing flood damage to the use of structural and nonstructural projects is in the public interest. It is the state's duty to assist in funding flood control projects.

Counties planning under growth management must make all regulations consistent with the county flood management plan. Counties planning under growth management must also make county land designations, such as agriculture, forest, mineral or critical areas, consistent with the county flood management plan.

Flood prevention and minimization is specifically added to the list of responsibilities of the State Environmental Policy Act. The Department of Fish and Wildlife gravel removal WACs are clarified. This includes establishment of an excavation line parallel to the water's edge, establishment of a minimum gradient upward from the excavation line at 1/2 percent and allowance for excavated minerals to be stored within the high water mark from June 15 to August 15.

Hydraulic permit decisions may not affect the amount, timing or delivery method of water diverted under surface

water diversions after the water leaves the stream and before it returns.

Individuals who win hydraulic permit appeals may be awarded legal and engineering costs. The Department of Natural Resources River Management WACs are codified with changes allowing sand and gravel removal if it continues to increase flood protection. Gravel removal is allowed for areas that have accumulations of gravel, if consistent with the county flood plan.

No gravel royalty may be charged to counties that remove gravel from a stream for flood control purposes. Counties must complete flood hazard management plans by December 31, 1999, or earlier for counties with two or more presidentially declared flood disasters in the last ten years.

Individuals who win Shoreline Management Act permit appeals may be awarded legal and engineering costs. State agencies are required to actively seek and encourage removal of accumulated materials in rivers and streams through permit requirements. Policy should be based on designed open channel hydraulic engineering criteria.

The focus for county flood plans must include practices that avoid long-term accretion of sediments in streams, and methods must be established to stop river channel migration. Dredging of sand and gravel for navigation is not exempt from royalty payments. The Department of Transportation is required to participate in flood reduction projects based on benefits received. Flood protection projects are defined as work necessary to preserve, restore or improve natural or human-made stream banks or flood control facilities. The Departments of Fish and Wildlife, Natural Resources and Ecology are required to jointly develop memorandums of understanding to better coordinate the agencies' actions and permit the requirements. The goal of the memorandums is to minimize duplicate information and to develop a comprehensive permit process which is streamlined and easily understandable to permit applicants.

Votes on Final Passage:

Senate	38	10	
House	70	25	(House amended)
Senate			(Senate refused to concur)
House	67	27	(House receded)

Effective: July 23, 1995

Partial Veto Summary: Changes made to the hydraulics law and the Shoreline Management Act are deleted. Persons are not awarded legal and engineering costs if they win a hydraulic appeal. The emergency clause is deleted.

VETO MESSAGE ON SB 5632-S2

May 16, 1995

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 6, 7, 8, 9, 10, 19, 20, and 29, Engrossed Second Substitute Senate Bill No. 5632 entitled:

“AN ACT Relating to flood damage reduction;”

Engrossed Second Substitute Senate Bill No. 5632 makes changes to the way local governments and state agencies are to plan for and to prevent flooding. The intent and much of the content of the bill is laudable. We do need to work together to reduce the likelihood of damage from future floods. I commend the members of the legislature for their hard work on this difficult task.

I am concerned, however, that this bill removes or significantly weakens many protections for our environment in favor of allowing nearly unfettered dredging and diking of our rivers. Instead, we must take a balanced approach that includes adapting our land use practices to reduce flood damage.

Section 6 adds definitions to the hydraulic code which is a primary tool for protecting fish habitat. These changes would have the effect of limiting the application of the code and would cause confusion to the applications. It could also make it harder to deal with real emergencies.

Section 7 places portions of the hydraulic code rules in statute with changes that would be detrimental to fish habitat, including changing the minimum gradient required in hydraulic excavations. This change reduces flexibility of the Department of Fish and Wildlife and decreases the opportunities to work with permittees to consider site specific conditions.

Sections 8 and 9 amend the hydraulic code and require the Department of Fish and Wildlife to approve a hydraulic application if the project protects a structure that is likely to incur significant flood damage during the next flood season. Approval is also mandated if the project provides fish habitat productivity equivalent to pre-project conditions within two years. This requirement places an unreasonable burden on the Department of Fish and Wildlife to predict future floods. It could also place certain fish runs at grave risk.

The overall effect of sections 6, 7, 8, and 9 would be to reduce the effectiveness of the Department of Fish and Wildlife in working with permittees to ensure that instream projects do little harm to fish habitat. At a time when we have so much to do to restore and protect salmon runs in our state, it is inappropriate to further limit one of the few tools we have to protect salmon habitat. I believe strongly that the Department of Fish and Wildlife should continue to extend the utmost cooperation to permit applicants, especially for projects to reduce flood damage. I am directing the Department of Fish and Wildlife, along with my staff, to review the permitting process and to suggest ways to make the hydraulic code more user-friendly.

Sections 10 and 19 award legal and engineering costs to aggrieved permit applicants but not to others who might appeal a permitting decision. An applicant might want to raise a flood control dike with the effect of shifting floodwater to a landowner downstream. That downstream landowner should have the same possibility of being awarded costs upon successful appeal as the permit applicant. Sections 901-904 of Engrossed Substitute House Bill No. 1010 allow a broader range of individuals to recover up to \$25,000 of the cost of appealing an agency action — including permit decisions.

Section 20 directs “each appropriate agency” to encourage the removal of gravel where there is a flood damage reduction benefit. The same agencies are to “consider the benefits of a designed, open-channel hydraulic engineering criteria to facilitate the natural downstream movement of detrimental material.” This

directive is contrary to agencies' missions elsewhere in statute, such as protecting fish and wildlife and conserving shorelines.

Section 29 is an emergency clause providing that this bill take effect immediately upon my signing. This legislation addresses issues of overwhelming importance to the people of this state. Preventing this bill from being subject to a referendum under Article II, section 1 (b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For these reasons, I have vetoed sections 6, 7, 8, 9, 10, 19, 20, and 29 of Engrossed Second Substitute Senate Bill No. 5632.

With the exception of sections 6, 7, 8, 9, 10, 19, 20, and 29, Engrossed Second Substitute Senate Bill No. 5632 is approved.

Respectfully submitted,



Mike Lowry
Governor

E2SSB 5633

C 255 L 95

Attempting to limit the growth and spread of the noxious weed spartina.

By Senate Committee on Ways & Means (originally sponsored by Senators Snyder, Swecker, Hargrove, Haugen, Morton, Hochstatter, Owen and Rasmussen).

Senate Committee on Natural Resources
Senate Committee on Ways & Means
House Committee on Agriculture & Ecology
House Committee on Appropriations

Background: Spartina is an aquatic plant native to the Atlantic coast. It was inadvertently introduced to the West Coast by unknown means, possibly arriving in packing material surrounding East Coast seed oysters. It is currently growing in Willapa Bay, a conservancy shoreline environment within a shoreline of statewide significance.

Spartina naturalizes in both salt and fresh water. It spreads through rhizomes and seeds. The rhizomes grow laterally underground, growing into dense "meadows" that displace intertidal plants, animals, fish, and birds. The meadows also block drainage and alter water flows. Tidal movement breaks Spartina clumps from meadows and carries them to other areas where they establish and spread. Spartina seeds spread through both water and air and can establish miles from the seed source.

Numerous interested parties and several state agencies have worked together to produce an integrated Spartina management plan for Willapa Bay. The plan calls for manual and mechanical methods to remove Spartina, as well as for application of glyphosate. Glyphosate, the active ingredient in the herbicide Rodeo, is the only herbicide labeled for use on Spartina, and the only herbicide approved by the Environmental Protection Agency for application in estuarine waters.

The Departments of Agriculture, Ecology, Natural Resources, and Fish and Wildlife adopted a final Environmental Impact Statement (EIS) in November 1993. The EIS selected the integrated Spartina management plan as the preferred method of Spartina control. The Pacific County Department of Community Development reviewed the EIS and, pursuant to the requirements of the State Environmental Protection Act (SEPA), issued a Determination of No Significance (DNS) in February 1994. After the statutorily required notification and hearings had occurred, the Pacific County Planning Commission granted a shoreline substantial development permit to the Pacific County Weed Board. The commission's decision was affirmed by the Pacific County Board of Commissioners.

Opponents of the integrated Spartina management plan appealed the commission's decision to the Shorelines Hearings Board and the Pollution Control Hearings Board. Before the appeal was heard, the parties reached a settlement that includes the conditions under which Rodeo may be used on Spartina. The settlement also requires each landowner or applicator to obtain a water quality modification permit from the Department of Ecology before undertaking any Spartina control that includes the use of Rodeo.

Summary: The Legislature finds that Spartina and purple loosestrife present a significant hydrological threat to Washington. Current laws and regulations designed to protect the environment from detrimental human alteration are not designed to respond to emergency situations.

The Department of Agriculture, in cooperation with the state Noxious Weed Control Board, is responsible for a unified effort to control Spartina and purple loosestrife. The Department of Agriculture reports quarterly to the Legislature on the progress of the program and on the funds spent.

Aquatic noxious weeds are defined to include all species designated by the state Noxious Weed Control Board.

The Department of Ecology is directed to issue a short-term water quality modification to applicants who intend to use federally-approved herbicides and surfactants for invasive noxious aquatic weed control. The process of removal and control of Spartina or purple loosestrife using hand held or carried tools is not considered a hydraulic project requiring a hydraulic permit from the Department of Fish and Wildlife. The Department of Fish and Wildlife develops a brochure that may be used in lieu of a permit for noxious weeds other than Spartina and purple loosestrife. The process of removal or control of aquatic noxious weeds through the use of an approved herbicide or other treatment methods in an EIS or brochure are not considered a substantial development requiring a substantial development permit.

An EIS addressing an integrated noxious weed management control program is sufficient to meet the requirements of SEPA. Spartina removal includes restora-

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tion of the intertidal land, and agencies of state government and affected land owners develop a restoration plan.

State agencies and local governments are prohibited from using permitting requirements, regulatory authority, or legal mechanisms to override the intent and provisions of this act.

State agencies are responsible for control on their lands.

There is a standard severability clause.

Votes on Final Passage:

Senate	45	1	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SSB 5647

C 119 L 95

Changing retention of leave provisions for employees of community and technical colleges.

By Senate Committee on Higher Education (originally sponsored by Senators Bauer, Wood, Kohl, Drew, Haugen and Winsley; by request of State Board for Community and Technical Colleges).

Senate Committee on Higher Education
House Committee on Higher Education

Background: The current language regarding the transfer of sick leave for exempt employees has led to sick leave transfers between colleges and agencies being permitted on some occasions and questioned on others.

Summary: Accrued sick leave must be transferrable between a college district and the college board, an educational service district, any school district, or any other higher education institution.

Votes on Final Passage:

Senate	47	0
House	94	2

Effective: July 23, 1995

SB 5652

PARTIAL VETO

C 379 L 95

Temporarily prohibiting public assistance payments for willful violators of public assistance eligibility provisions.

By Senators Gaspard, McDonald, Smith, Quigley, Wojahn, Hargrove, Heavey, Winsley, Sheldon, Fraser, Loveland, Fairley, Oke, McAuliffe, Spanel, Kohl, Franklin, Drew, Haugen, Owen, Bauer, Snyder, Deccio and Rasmussen.

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

Background: Recent investigation and prosecution of a major welfare fraud case in Washington State raises the issue of equity in the distribution of limited public assistance resources. Concerns exist regarding appropriate treatment of those who have committed fraud. Current law states that persons imprisoned for committing any crime shall not receive assistance during the period of imprisonment.

Summary: Public assistance is suspended by the Department of Social and Health Services (DSHS) if an applicant or recipient is convicted for intentionally providing false or misleading information, or commits an act designed to fraudulently obtain benefits.

The period of suspension is six months for a first conviction, and no less than 12 months for a subsequent violation. The suspension applies regardless of whether the recipient is confined upon conviction, or incurs some lesser penalty.

By September 30, 1995, DSHS implements the SAVE ("systematic alien verification for entitlements") program, a federal computer program to verify aliens' applications for entitlements, and takes other measures to prevent fraud by aliens.

Votes on Final Passage:

Senate	48	0	
House	90	4	(House amended)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: The SAVE ("systematic alien verification for entitlements") program is not implemented.

VETO MESSAGE ON SB 5652

May 16, 1995

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, 4, and 5, Senate Bill No. 5652 entitled:

"AN ACT Relating to welfare fraud;"

Senate Bill No. 5652 addresses the issue of welfare fraud and provides that persons convicted under RCW 74.08.331 will be ineligible to receive public assistance for a specified period. Sections 3, 4, and 5 require the Department of Social and Health Services (DSHS) to reinstate the Systematic Alien Verification for Entitlement (SAVE) program. DSHS's past experience with this program has established that it is an inefficient and costly method of identifying fraudulent applications for assistance. Furthermore, the federal government has, through several agencies, come to the same conclusion: the SAVE program costs about twice as much as is saved. This has been verified by the General Accounting Office and DSHS. Washington is one of many states that has decided this program is ineffective.

This state is in no way supportive of granting benefits to illegal immigrants who are not eligible for assistance. DSHS currently has effective mechanisms in place to identify fraud of this kind.

Elaborate systems exist throughout interagency agreements with the Social Security Administration and the Immigration and Naturalization Service which double check immigration status to ensure recipients are eligible for service. The SAVE program will not serve to enhance those efforts.

For these reasons, I have vetoed sections 3, 4, and 5 of Senate Bill No. 5652.

With the exception of sections 3, 4, and 5, Senate Bill No. 5652 is approved.

Respectfully submitted,



*Mike Lowry
Governor*

SB 5655

PARTIAL VETO

C 380 L 95

Revising state freight rail service programs.

By Senators Rasmussen and Sellar.

Senate Committee on Transportation

House Committee on Transportation

Background: Current Freight Rail Program. The state's freight rail program is responsible for preparing federally-mandated rail planning, providing technical assistance to port and rail districts, shortline operators and other entities, and distributing federal and state funds in the form of loans and grants.

To date, the program has had two primary areas of emphasis: rail banking and rail assistance.

Rail banking occurs where a rail line is proposed to be abandoned by its owner. If the line is found to be essential to the state's rail system, and if a benefit/cost analysis shows that the state will receive benefits in excess of the cost of acquiring the line, the state may assist local organizations (such as port districts, county public works departments, rail districts, etc.) in acquiring the line, or it may acquire the line on its own. If acquired under this abandonment procedure, the new owner must use the rail right-of-way for a transportation purpose. Most commonly, these railroad rights-of-way are converted to interim use as a recreational trail.

The purpose of rail banking is to keep the right-of-way intact for future restoration and use as an operating railroad line. A recent example is Burlington-Northern's Stampede Pass rail line, which has been out of service since the 1980's. A portion of this line was rail banked to keep the corridor intact. Recently, Burlington-Northern has announced that it may reopen its Stampede Pass line, providing a third rail passage over the Cascade Mountains.

The rail banking program is supported by state and federal moneys from the Essential Rail Banking Account. Local financial participation is required to the extent that it is available.

Freight rail assistance is available from the state to entities wishing to restore rail operations on a line, or to keep existing operations economically viable, thus avoiding the possibility of rail abandonment.

This program is directed at assisting freight operations on light density lines. Moneys from the state Freight Rail Assistance Account can be used to acquire, rebuild, or rehabilitate the rail lines, equipment, and transloading facilities. Projects with a demonstrated level of financial commitment, from either the private sector or the public sector, are given preference for state loans and/or grants.

Changes in Industry Affecting Freight Rail Program.

Since 1970, the state has lost about 40 percent of its rail lines to abandonment. Many of the abandoned lines were not economically viable due to the decrease in freight rail traffic.

It now appears that the freight rail industry is emerging from a long period of non-investment in its infrastructure to a period of renewed interest in upgrading its rail lines and facilities. This is in response to an enormous upturn in the demand for moving goods via freight rail.

As freight rail traffic continues to increase, there are serious rail capacity constraints on the two large mainlines in Washington (Burlington-Northern and Union Pacific). Mainline congestion is exacerbated by at least two factors: (1) the lack of rail capacity at port terminals, and (2) the congestion at the two routes over the Cascade mountains (along Columbia River to Pasco, and at the Cascade Tunnel over Stevens Pass).

Freight Rail Policy Advisory Committee Study. This past interim, a Freight Rail Policy Advisory Committee was convened by the Washington State Department of Transportation as part of its multimodal state transportation planning process.

The committee recommended a number of changes, including changes to the state freight rail program. The primary recommendations were aimed at responding to the new market conditions and rail system constraints by modifying the state's freight rail program to allow for rail assistance at port facilities and at select portions of the railroad mainline.

Summary: The state's freight rail program is modified to allow rail assistance projects at port-to-rail facilities and on select portions of the mainline.

The Department of Transportation evaluates and monitors rail commodity flows and traffic types to ensure that the program is responsive to the changing freight rail environment.

The Department of Transportation must consult with the Washington State Freight Rail Policy Advisory Committee, established under statute, in evaluating rail corridors and projects.

The department is directed to develop criteria for prioritizing freight rail projects.

The Essential Rail Banking and Essential Rail Assistance Accounts are merged into one account. The

department must first seek federal STP funds for rail corridor preservation projects. State funds can be used to construct or rehabilitate loading facilities, but no state funds may be provided to private railroad companies or private property owners in the form of outright grants.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	91	0	(House amended)
Senate	44	1	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: Section 9, creating a new Freight Rail Policy Advisory Committee, is vetoed.

VETO MESSAGE ON SB 5655

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 9, Senate Bill No. 5655 entitled:

"AN ACT Relating to rail freight service;"

Senate Bill No. 5655 makes several substantive changes in existing statutes improving the laws that govern the role the state will play in the preservation and development of the freight rail system. This issue is important to a state like Washington which has an increasing economic reliance on rail systems.


However, section 9 of Senate Bill No. 5655 creates a new advisory group to be known as the Freight Rail Policy Advisory Committee. Avoiding the unnecessary creation of such committees has been and remains a goal of this administration. Indeed, according to the law passed just a year ago, it is also legislative policy to curtail the proliferation of these groups. Under the law, we must ask, "Could the work of the board or commission be done by an ad hoc committee?" Since the work of the Freight Rail Policy Advisory Committee could be done by a group appointed by and operated under existing authorities of the Department of Transportation, there is no reason to unnecessarily mandate this committee in statute.

Since it is important that the Department of Transportation seek guidance from interested parties as it exercises the authorities granted in this bill, I have sought and have received assurances from the department that they will create and will work with an ad hoc committee of this nature.

For this reason, I have vetoed section 9 of Senate Bill No. 5655.

With the exception of section 9, Senate Bill No. 5655 is approved.

Respectfully submitted,



Mike Lowry
Governor

Providing for heating oil liability protection.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Hale, Snyder, Sellar, Fraser, Kohl and Winsley).

Senate Committee on Financial Institutions & Housing
Senate Committee on Ways & Means
House Committee on Financial Institutions & Insurance

Background: In 1989, the Legislature created the Pollution Liability Insurance Agency (PLIA). This agency was created in response to the requirements of the Environmental Protection Agency (EPA) that owners and operators of petroleum underground storage tanks demonstrate financial responsibility for the cleanup of contamination resulting from spills or releases of petroleum.

After reviewing several proposals to assist the owners and operators of underground storage tanks with the financial responsibility requirements, the Legislature adopted the PLIA reinsurance program. The PLIA program provides reinsurance to commercial insurance companies, which in turn provide pollution liability insurance to underground storage tank owners and operators in Washington.

The state's reinsurance program's objective is to improve the availability and affordability of pollution liability insurance for owners and operators of underground storage tanks by selling reinsurance at a price significantly below the private market price for similar insurance. The discount is passed to owners and operators of underground storage tanks through reduced insurance premiums and increased availability of insurance.

PLIA program and administrative expenses are paid from the pollution liability insurance agency trust account. To fund the program, the Legislature imposed a petroleum products tax of 0.50 percent on the first possession of any petroleum product in the state. The tax applies to the wholesale value of the petroleum product. Petroleum products exported for use and sale outside the state as fuel, and those products packaged for sale to ultimate consumers are exempt from taxation. Collection of the tax ceases whenever the account balance exceeds \$15 million and resumes when the balance drops below \$7.5 million. The state has not collected the tax since July 1992.

PLIA expires on June 1, 1995.

Summary: A program to provide pollution liability insurance for heating oil tanks is created in the Pollution Liability Insurance Agency (PLIA). This program is to be a reinsurance program which makes liability insurance available and affordable to heating oil tank owners.

To fund the program, a pollution liability insurance fee is imposed on heating oil purchased within the state. The fee is based on the rate of six tenths of one cent per gallon of heating oil purchased. The fee is collected by the

Department of Licensing for deposit into the heating oil liability trust account. The fund is used to purchase an insurance policy that provides for corrective action costs, third party liability damages and defense costs, and administrative expenses. The insurance is limited to \$60,000 per occurrence.

The exemption from licensing for persons using special fuel solely for heating purposes is removed. Special fuel is all fuel except for motor vehicles.

PLIA must report to the Legislature annually on the Heating Oil Pollution Liability Protection Program. The Heating Oil Liability Protection Program expires June 1, 2001.

Votes on Final Passage:

Senate	45	1
House	85	10

Effective: July 23, 1995

ESSB 5662

C 223 L 95

Clarifying the existing authority of the department of ecology and the department of natural resources to require performance security for metals mining and milling operations.

By Senate Committee on Natural Resources (originally sponsored by Senators Owen, Swecker and Morton).

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: In 1994, the Legislature enacted a statute to regulate metal minings and milling operations in the state of Washington. In that statute, both the Department of Ecology and the Department of Natural Resources were given authority to require performance bonds to guarantee the performance of an industry with respect to state law.

Summary: The dual responsibility of the Department of Ecology and the Department of Natural Resources under the 1994 Metals Mining Act is clarified, and the responsibility for performance security bonds for metals mining is given exclusively to the Department of Ecology. The performance security must be acceptable to both agencies.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SB 5668

C 31 L 95

Revising provisions relating to sureties for industrial insurance self-insurers.

By Senators Hale, Wood, Fraser, Pelz, Prince, Newhouse, A. Anderson, Palmer, Franklin, Hargrove, Bauer, Deccio, C. Anderson, Prentice and Winsley.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Self-insured employers are required to deposit money, corporate securities, bonds or letters of credit to an escrow account to insure payment of reasonably foreseeable compensation and assessments in case of the employer's default or bankruptcy.

Some bankrupt defaulting self-insurers have filed suit to obtain these sureties for the benefit of third-party creditors.

Summary: It is clarified that in the event of default, the self-insurer loses all right and title to, any interest in, and any right to control the surety. The Department of Labor and Industries retains the surety of a defaulting self-insurer.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SB 5677

C 343 L 95

Clarifying building code and structure requirements.

By Senators Roach, Haugen and Winsley; by request of Department of Community, Trade, and Economic Development.

Senate Committee on Government Operations
House Committee on Commerce & Labor

Background: The state building code consists of a series of uniform national codes adopted and updated by industry groups which are adopted in Washington by reference. The review and selection of national uniform standards is done by the Building Code Council. A local building official may request an opinion from the Building Code Council.

Changes in uniform standards, in nomenclature, in paragraph references and in federal law require periodic amendment of state statutes. In specific, the Uniform Mechanical Code has been reformatted, changing chapter references; the Uniform Fire Code and Uniform Fire Code Standards are now published by the International Fire Code Institute; the definition of structures for the state energy code has been modified; the Americans with Disabilities Act modified certain references governing handicapped access; the Building Code Council definition

ESSB 5684

of value in determining whether a substantial remodel or substantial rehabilitation has occurred has changed from assessed value to actual value; and the chapter regulating safety glazing has long been duplicated and in conflict with uniform national glazing standards in the building code.

Summary: Nomenclature, paragraph references and grammatical errors are corrected in the statutes relating to building codes. The definition of a substantial remodel or rehabilitation for purposes of the handicapped access law is changed from 60 percent of assessed value to 60 percent of value. The chapter on safety glazing standards is repealed. Any official charged with the duty to enforce the enumerated building codes may request an opinion from the Building Code Council.

Votes on Final Passage:

Senate	48	0	
House	80	15	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

ESSB 5684

PARTIAL VETO

C 397 L 95

Consolidating and revising public disclosure laws.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Winsley, Gaspard, Oke, Wood and Hale; by request of Public Disclosure Commission).

Senate Committee on Law & Justice

Background: The Public Disclosure Commission (PDC) is charged with enforcement of laws related to public records, campaign financing, lobbyist registration and reporting, political advertising, reporting of financial affairs of public officials, and campaign contribution limitations. In exercising its enforcement authority, the PDC often becomes aware of problems and concerns with existing law that can be addressed by amending the law. These changes can range from very minor technical changes to significant policy adjustments.

The types of problems identified by the PDC include multiple definition sections with different definitions for the same word or phrase, different restrictions for candidates for state or local office, the need for clarification of a number of procedures, the need to simplify some operating procedures, the elimination of unnecessary reporting requirements, and addressing technological changes.

In 1993, the Legislature enacted a law establishing a Commission on Ethics in Government and Campaign

Practices. This legislation was in response to the reported illegal use of legislative staff for campaign purposes, and other concerns with ethical standards for both campaign practices and state employment.

Legislation was drafted to implement the recommendations of the commission. This legislation was introduced in the form of two bills, one focused on campaign reform and one focused on state employee ethics issues. The ethics bill was enacted by the Legislature in 1994. Many of the campaign reform recommendations have been merged with the proposed legislation from the PDC.

Summary: The three existing definition sections in public disclosure statutes are merged and amended. The definition for "caucus of the state legislature" is replaced by a definition for "caucus political committee" throughout this chapter. "Contribution" does not include legal or accounting services donated to a political party, caucus political committee, or a candidate. "Gift" is defined the same as in the ethics statutes.

Campaigns must file only a weekly report on contributions deposited in a bank, instead of every time a deposit is made. The PDC must allow filer participation in any PDC system designed for electronic filing of reports.

Only the name and address is required for each person who has contributed \$100 or more to a campaign. Unnecessary reporting requirements for contributions, expenditures, and gifts are deleted.

Electronic filing of reports is permitted. The file transfer date is the received date for electronic filing.

The late contribution limit does apply to county central committees and legislative district committees.

The restriction on mailings by state legislators during election years terminates on the last day for certification of election results.

The PDC is required to publish the lobbyist pictorial directory every two years instead of annually.

Detailed staff and salary reports must be provided by the Legislature annually.

Elected officials and state officers must certify with their financial affairs statement that they are aware of the prohibitions on use of public facilities. Activities regarding initiatives to the Legislature are exempt from the prohibition on use of public facilities to the same extent activities regarding other ballot measures are permitted.

Gifts to the spouse or children of elected officials and state officers are attributable to the official or employee unless an independent relationship exists between the giver and the spouse or child. Elected officials and state officers must report gifts of food and beverage in excess of \$50, and payments of expenses for appearances, course fees, or travel that are accepted.

Members of the Executive Ethics Board, the Legislative Ethics Board, and the Commission on Judicial Conduct must file financial affairs statements.

Public disclosure statutes are amended to specifically address access to and production of public records in the possession of the Senate and the House of Representatives.

The PDC procedure for renewing reporting modifications is simplified. PDC rules relating to campaign finance or political advertising that would take effect after June 30 of a general election year will take effect no earlier than the day after the election.

Sponsor identification is required only on the first page of political advertising rather than on every page. Language is added that clarifies that the top five contributors must be listed when the advertising is an independent expenditure by a sponsor other than a party organization. Sponsor identification does not have to appear in a printed box.

The contribution limit from caucuses and political parties is based on the number of eligible voters in a jurisdiction at the time of the most recent election. Voter registration, get-out-the-vote activities, sample ballots, precinct judges, and political committee internal organization and fund raising without direct association with individual candidates are exempt from contribution limits.

Language that prohibits employers or labor organizations from demanding the appearance of political neutrality from their employees is deleted.

The full amount of a loan to a campaign for any public office is attributed as a contribution to both the lender and guarantor. The requirement that a loan must be secured or guaranteed in order to not be subject to contribution limits is deleted.

The prohibition against state officials soliciting funds within a government agency for a candidate, political party or political committee is extended to local officials. The prohibition against state officials and employees providing an advantage to employees or job applicants based on contributions to political parties or political committees is extended to local officials and employees.

The prohibition on soliciting money in return for media support applies to candidates for all public offices.

Reimbursing another person for a contribution to a candidate for any public office is prohibited.

Contributions must be disposed of as surplus funds if the candidate for any public office wants to use the funds for a campaign for a different office than the one for which they are solicited and the contributor does not give permission.

Internal communications, volunteer services, and incidental expenses, not to exceed \$50, personally paid by volunteer campaign workers are excluded from the definition for independent expenditure.

Ethics boards are required to define measurable expenditure with regard to use of public facilities for political purposes.

Surplus campaign funds may be transferred without limit to the caucus political committee. Surplus funds may also be used for nonreimbursed office related expenses.

Lobbyist reporting requirements are revised to conform to the reporting requirements in the state ethics law.

Votes on Final Passage:

Senate	48	0	
House	89	0	(House amended)
Senate			(Senate refused to concur)
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 1, 1995 (Sections 1-32, 34 and 37)
 July 23, 1995
 September 1, 1995 (Section 33)

Partial Veto Summary: The section limiting required disclosure for each person who contributes \$100 or more to a campaign to only the name and address is vetoed.

The section deleting language that prohibits employers or labor organizations from demanding the appearance of political neutrality from their employees is vetoed.

VETO MESSAGE ON SB 5684-S

May 16, 1995

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 and 21, Engrossed Substitute Senate Bill No. 5684 entitled:

"AN ACT Relating to public disclosure;"

Engrossed Substitute Senate Bill No. 5684 makes many important and necessary changes to our public disclosure and campaign practices laws which I strongly support. It incorporates most of the recommendations of the Public Disclosure Commission's (PDC) request legislation. It also enacts many of the campaign practices recommendations of the Commission on Ethics and Campaign Practices that were introduced at my request in Substitute Senate Bill No. 5576. The legislature is to be commended for making significant improvements in this complex and controversial area of law designed to protect the public's right to know.

However, I do not believe section 3 of Engrossed Substitute Senate Bill No. 5684 to be consistent with the underlying principles of openness and full disclosure of political campaign financing. Section 3 would prevent the PDC from requiring the reporting of additional information about contributors, other than their names, addresses, and the amount and date of their contribution. The apparent purpose of this provision is to protect the privacy of contributors.

The PDC currently has clear and specific statutory authority to require additional contributor information in conformance with the policies and purposes of this law. Consistent with this authority, the PDC, by rule, has required the reporting of the occupation and the name and address of the employer for larger contributors — those who contribute \$100 or more. This additional reporting requirement is designed to disclose possible patterns of coordinated contributions to candidates and to ballot measures by large organizations or businesses who may attempt to circumvent contribution limits.

Employer and occupational information is critical to identifying and disclosing these patterns and to detecting violations of the "anti-laundering" laws of our state. Section 3 would close a major avenue for disclosure of vital information about who influences elections. I believe that the public's right to information about elections and who influences those elections outweighs the purported need to protect the privacy of individual contributors.

Section 21 of Engrossed Substitute Senate Bill No. 5684 modifies RCW 42.17.680 which is designed to protect the rights of

employees from political pressure on the job. Current law specifically prohibits employers or labor organizations from discriminating against workers for failure to contribute to or support or oppose a candidate, ballot proposition, political party, or political committee. This protects employees from being forced to promote an employer's political agenda. Additional current language, that would be removed by section 21, prohibits discrimination for "in any way supporting or opposing" a candidate, ballot proposition, political party, or political committee. This language provides protections for workers to act on their own political beliefs.

This specific provision is the subject of ongoing litigation regarding whether or not employers may be prevented from mandating the political neutrality of their employees in cases where the nature of their jobs require it. Moreover, section 21 did not receive full and open debate in the legislature before the bill was passed. I am, therefore, reluctant to approve any changes in this very sensitive and controversial law until its implications have been more thoroughly and more openly explored in legislative and judicial forums.

For these reasons, I am vetoing sections 3 and 21 of Engrossed Substitute Senate Bill No. 5684.

With the exception of sections 3 and 21, Engrossed Substitute Senate Bill No. 5684 is approved.

Respectfully submitted,

Mike Lowry
Governor

ESSB 5685

C 256 L 95

Updating regulation of salvaged vehicles.

By Senate Committee on Transportation (originally sponsored by Senators Long, Haugen, Wood, Kohl, Prince, Fraser, Owen, Schow, Sellar, Heavey, Rasmussen, Winsley and Sheldon).

Senate Committee on Transportation
House Committee on Transportation

Background: When a vehicle is destroyed (i.e., declared a total loss), the registered owner, or insurance company settling the claim for the total loss of a vehicle, must surrender the certificate of ownership (i.e., title) to the Department of Licensing (DOL) within 15 days. If an owner decides to sell a destroyed vehicle after the title has been surrendered to the DOL, the salvage vehicle may be sold using a bill of sale instead of a title.

Prior to operating a vehicle that has been destroyed, a new certificate of ownership must be issued by the DOL. The application for a new title requires a State Patrol vehicle identification number (VIN) inspection and a bill of sale from: (a) the insurance company that declared the vehicle a total loss; (b) a motor vehicle wrecker; or (c) the last registered owner noted with the DOL. Certificates of ownership and registration reissued for vehicles reported destroyed that are less than four years old must contain the word "rebuilt."

By law, the State Patrol is required to do VIN inspections only on vehicles that were previously registered in another state or country. The VIN inspection is aimed at detecting stolen vehicles and parts, not examining whether a vehicle has been safely constructed.

The State Patrol is required to impound vehicles if it has reasonable grounds to believe vehicle or part identification numbers have been intentionally altered or removed.

Currently, there are no prohibitions against selling or transferring vehicle titles.

Vehicle wreckers are businesses that dismantle salvage vehicles for the purpose of selling secondhand parts. The Department of Licensing licenses and regulates vehicle wreckers. The State Patrol has the responsibility of inspecting vehicle wrecker premises. Engaging in vehicle wrecking without a license is a gross misdemeanor.

At present, it is unlawful for vehicle wreckers to keep a motor vehicle, or any integral part thereof, outside the wall or fence required to obscure the wrecking yard.

The state is required to reimburse the owner of a car that passed a State Patrol inspection and was later found to be stolen. Washington is the only state with this requirement and will pay out about \$0.5 million in reimbursements in the 1993-95 biennium.

Summary: It is a class C felony for a person to sell or convey a vehicle title, except in conjunction with the sale or transfer of the vehicle for which the title is originally issued.

The State Patrol is given more latitude in impounding cars it believes to be stolen.

Fenders and airbags are added to the list of items constituting major component parts of a vehicle.

It is specified that individuals engaging in vehicle wrecking without a license are guilty of a gross misdemeanor. Second and subsequent offenses are class C felonies.

For vehicle wreckers with multiple locations, tow vehicles operated out of any of the licensed locations may display special license plates bearing the same license number.

Some less severe violations of vehicle wrecker statutes pertaining to record keeping are deemed misdemeanors.

The Department of Licensing is given administrative cease and desist authority and subpoena power to address illegal wrecking activities.

Effective January 1, 1997, the DOL must issue a unique certificate of ownership and registration for vehicles less than four years old that are rebuilt after surrender of the certificate of ownership to the DOL due to the vehicle's destruction or declaration as a total loss. Each certificate must conspicuously display, across its front, a word indicating that the vehicle is rebuilt.

Beginning January 1, 1997, the State Patrol is required to securely affix or inscribe a marking at the driver's door pillar indicating that the vehicle is destroyed or declared a total loss. Removal of the marking is a class C felony.

The State Patrol must assemble a study group, with representation from the Department of Licensing, Washington Traffic Safety Commission, the insurance industry, the autobody industry, and other appropriate groups to examine the feasibility of implementing safety inspections for vehicles that are rebuilt after surrender of the certificate of ownership to the DOL due to the vehicle's destruction or declaration as a total loss. A study report must be submitted to the Legislative Transportation Committee no later than January 1, 1996.

The DOL, in consultation with the aforementioned study group members, must study the feasibility of expanding the title and registration branding requirement to all vehicles, regardless of age. Additionally, the study group is required to develop a recommendation regarding differentiating on the title and registration whether a rebuilt vehicle sustained cosmetic damage or structural damage. DOL must report its findings to the Legislative Transportation Committee no later than January 1, 1996.

A dealer is permitted to renegotiate a dollar amount specified as the trade-in allowance on a vehicle as part of the purchase price if the buyer fails to disclose that the vehicle that is being traded in has a title which is branded for any reason, including status as a rebuilt vehicle.

A VIN inspection is required for all vehicles that are rebuilt after surrender of the certificate of ownership to the DOL due to the vehicle's destruction or declaration as a total loss.

The state is no longer required to reimburse the owner of a car that is inspected by the Washington State Patrol and is later found to be reported stolen at the time of the inspection.

Votes on Final Passage:

Senate	45	0	
House	93	3	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SSB 5688

C 54 L 95

Improving screening for fetal alcohol syndrome.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Rasmussen, C. Anderson, Kohl, Prentice, McAuliffe, Fairley, Drew, Smith, Heavey, Sheldon, Wojahn, Bauer and Winsley).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Health Care

Background: Fetal Alcohol Syndrome (FAS) is a medical condition causing mental retardation and other developmental disabilities as a result of maternal alcohol use during pregnancy. The number of children born in

Washington State with FAS is currently estimated at 78-234 each year.

Individuals with undiagnosed FAS often suffer substantially from secondary disabilities such as child abuse, depression, aggression, school failure, and job instability. They also often end up in multiple foster home placements and in the juvenile justice system.

Statewide demand for FAS diagnostic and referral services far exceeds the currently available public and private capacity to provide these services. The Governor's proposed budget includes a \$400,000 line item for FAS screening and diagnostic services over the next biennium.

The University of Washington FAS Clinic maintains a clinic, the only one of its kind in the nation, devoted entirely to the diagnosis and care of individuals with FAS and possible fetal alcohol effects (PFAE). The UW FAS Clinic is currently funded to run one day per week and evaluate four to six patients per day. In the first two years of operation (1993-94), the clinic was able to see just 27 percent of the patients in Washington who requested appointments.

Summary: An intent section is created in which the Legislature finds that because fetal alcohol exposure is among the leading causes of mental retardation in our state, and because individuals with undiagnosed FAS suffer substantially from secondary disabilities, greater support is necessary for efforts directed at the early identification of and intervention into the problems associated with fetal alcohol exposure. The intent section also identifies the purpose of the act as supporting the development of local screening programs throughout the state.

The Department of Social and Health Services is required to contract with the University of Washington FAS Clinic to provide FAS screening and assessment services. The contracted services must include: (1) appropriate training for staff in community clinics; (2) development of educational materials for patients, their families and caregivers; (3) systematic information retrieval from each community clinic; (4) based on available funds, the establishment of a network of community-based FAS clinics; and (5) preparation of an annual report of the information retrieved.

An interagency agreement is executed to ensure coordination of fetal alcohol exposure screening and referral services among the Department of Health, the Department of Social and Health Services, the Department of Corrections, and the Office of the Superintendent of Public Instruction. The agreement must include a process for community advocates to participate in the review and development of fetal alcohol exposure programs administered or contracted for by the agencies executing the agreement.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 23, 1995

SB 5699

C 60 L 95

Revising provisions relating to international student exchange visitor placement organizations.

By Senators Fraser, Prince and Rasmussen; by request of Secretary of State.

Senate Committee on Education
House Committee on Education

Background: Under current law, all international student exchange visitor placement organizations that place students in public schools must register with the Secretary of State. However, the secretary has no duty to distribute the information to school districts.

Summary: The Secretary of State must annually provide the Superintendent of Public Instruction a list of all currently registered international student placement organizations. The superintendent must distribute that list to all state school districts.

A placement organization must renew its registration each year.

Votes on Final Passage:

Senate 44 1
House 95 0

Effective: July 23, 1995

SB 5718

C 224 L 95

Authorizing fund-raising on state property to benefit public fish and wildlife programs.

By Senators Drew and Haugen.

Senate Committee on Natural Resources
House Committee on Natural Resources

Background: Volunteer groups may use state property to raise funds to assist programs that help state parks. The authority to use state property for volunteer fund raising events does not extend to the property of the Department of Fish and Wildlife.

Summary: The manager of a state fish hatchery operated by the Department of Fish and Wildlife may allow nonprofit volunteer groups affiliated with the hatchery to undertake projects to raise donations, gifts, and grants that enhance support for the hatchery or activities in the surrounding watershed that benefit the hatchery. The manager may provide agency personnel and services, if available, to assist in the projects and may allow the volunteer groups to conduct activities on the grounds of the hatchery.

The director of the Department of Fish and Wildlife is required to establish guidelines and must encourage ar-

rangements between hatchery managers and nonprofit volunteer groups.

Votes on Final Passage:

Senate 44 0
House 95 0 (House amended)
Senate 47 0 (Senate concurred)

Effective: July 23, 1995

SSB 5724

PARTIAL VETO

C 257 L 95

Simplifying publication and distribution of court reports.

By Senate Committee on Law & Justice (originally sponsored by Senators Quigley, Long and Haugen; by request of State Law Library).

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

Background: The Commission on Supreme Court Reports ("the Commission") oversees the Office of the Reporter of Decisions ("the Reporter"), which publishes the decisions of the Supreme Court and Court of Appeals decisions.

The Supreme Court purchases for the state at least 300 copies of each volume of Supreme Court and Court of Appeals reports. These reports are distributed by the State Law Librarian to various offices and agencies throughout the state, including the state law library, state courts, public libraries, and law school libraries.

The Commission consists of six members: the Chief Justice, the Supreme Court Reporter of Decisions, the State Law Librarian, a Court of Appeals judge, the Public Printer, and an appointed state bar representative.

The legislative supplemental budget that passed last session required the reporter's office to be self-funding. These changes are needed to meet the mandate of the supplemental budget.

Summary: The Commission's duties and membership are changed. The Commission no longer publishes the opinions; instead, it serves as an advisory body to the Supreme Court regarding the publication of the courts' decisions. The publishing of the reports may be accomplished by contractual relations with private vendors and the Supreme Court.

The duty of distributing the reports is removed from the State Law Librarian and allocated to the Supreme Court Reporter. The reporter is required to provide one copy of each volume to each county law library, one copy to each accredited law school in this state and as many copies as the state library needs.

The Commission's membership includes the Chief Justice, the Reporter of Decisions, the State Law Librarian, a

judge of the Court of Appeals, a member of the bar, and other members as determined by the Chief Justice.

The Commission on Court Reports must develop a plan by July 1, 1997, for the non-exclusive availability of the materials prepared by the Reporter of Decisions.

Votes on Final Passage:

Senate	46	0	
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: The requirement that the State Law Librarian receive from the publisher of the court reports copies of court reports purchased by the Supreme Court is reinstated. The section in the bill that addresses this issue is irreconcilable with Substitute Senate Bill 5067, which has already been signed into law. The veto will avoid confusion in the implementation of these measures.

VETO MESSAGE ON SB 5724-S

May 5, 1995

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. 5724 entitled:

"AN ACT Relating to state court reports;"

This bill reorganizes the Commission on Supreme Court Reports and shifts certain duties between the State Law Librarian and the Supreme Court Reporter. This will assist the Commission in becoming self-funded and has my full support.

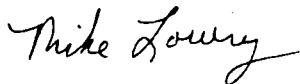
However, section 3 presents an irreconcilable double amendment to RCW 40.04.030 with Substitute Senate Bill No. 5067 which has already been signed into law. Section 1 of Substitute Senate Bill No. 5067 makes various changes in the delivery of session laws and house and senate journals. Section 3 of Substitute Senate Bill No. 5724 makes no such substantive changes but deletes language amended by section 1 of Substitute Senate Bill No. 5067 requiring the publisher of the supreme court and court of appeals reports to deliver copies to the state law librarian.

Vetoing section 3 will avoid unnecessary confusion in the implementation of these measures.

For this reason, I am vetoing section 3 of Substitute Senate Bill No. 5724.

With the exception of section 3, Substitute Senate Bill No. 5724 is approved.

Respectfully submitted,



Mike Lowry
Governor

SB 5728

C 229 L 95

Modifying the business and occupation tax on international investment management companies.

By Senators Gaspard, McDonald, Wojahn, Rinehart, Rasmussen and Winsley.

Senate Committee on Ways & Means
House Committee on Finance

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:

Manufacturing, wholesaling, & extracting	0.506%
Retailing	0.471%
Services	
- Business Services	2.5%
- Financial Services	1.7%
- Other activities	2.09%

In 1993, the B&O tax rate on selected business services, financial services, and all other services was increased from 1.5 percent. Also in 1993, the B&O tax was extended to public and nonprofit hospitals at the rate of .75 percent through June 30, 1995, and 1.5 percent thereafter.

In addition to these permanent tax increases, in 1993 a surtax of 6.5 percent was imposed on all B&O tax classifications except selected business services, financial services, retailing, and public and nonprofit hospitals. The surtax was lowered to 4.5 percent on January 1, 1995. The surtax expires July 1, 1997.

The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business.

When a Washington business provides services to an out-of-state business, the Washington business is fully taxable on the income if the services are performed within Washington. Income from services that are performed in more than one state is apportioned to this state for the B&O tax purposes. The tax applies only to that portion of the income that is derived from services rendered within this state. If apportionment cannot accurately be made by separate accounting methods, the income apportioned to this state is that proportion of total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.

Summary: The B&O tax rate on the business of providing international investment management services is reduced from 1.7 percent to 0.287 percent, which consists of a base rate of 0.275 percent and a surtax, until July 1, 1997, of 0.012 percent.

Investment management services is defined as investment research, investment consulting, portfolio management, fund administration, fund distribution, investment transactions, and related investment services.

ESSB 5739

International investment management services are provided if at least 10 percent of the gross income is from providing investment management services: (1) to persons or collective investment funds residing outside the United States, or (2) to persons or collective investment funds with at least 10 percent of their investments located outside the United States.

Votes on Final Passage:

Senate	43	5
House	87	4

Effective: July 1, 1995

ESSB 5739

C 11 L 95 E2

Exempting certain sales by nonprofit organizations from sales and use taxes.

By Senate Committee on Ways & Means (originally sponsored by Senators Strannigan, Rinehart, Johnson, Quigley, Long, Owen, Cantu, Hale, Finkbeiner, McCaslin, Palmer, Hochstatter, McDonald, Spanel, Schow, Prentice, Moyer, Loveland, Swecker, West, Rasmussen, Smith, Drew, Haugen, Franklin, Fairley, A. Anderson, Wojahn, Heavey, McAuliffe, Kohl, Hargrove, Oke and Bauer).

Senate Committee on Ways & Means
House Committee on Finance

Background: Nonprofit organizations are subject to the business and occupation (B&O) tax on their income, and must collect sales taxes on their sales unless specifically exempt by statute. Exemption from federal income tax does not automatically provide an exemption for state taxes. Most nonprofit organizations pay B&O tax at the services rate of 2.09 percent. However, because of the \$420 per year B&O tax credit, nonprofit organizations with gross incomes below \$20,096 per year owe no B&O tax.

Nonprofit organizations are exempt from the B&O tax and are not required to collect sales tax on the following fund-raising activities.

Public Benefit Organization Auctions. Income from fund-raising auctions conducted by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code is exempt from B&O tax and sales tax if the auction is held no more than once a year for a period no greater than two days. Organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code include organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; or to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals. No part of the net earnings may inure to the benefit of any private individual or shareholder, nor may a substantial part of the activities attempt to influ-

ence legislation. In addition, the organization may not participate in any political campaign.

Bazaars and Rummage Sales. Income from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax if the sales are conducted no more than twice each year, each sale lasts no more than two days, and the income from each sale does not exceed \$1,000. Sales tax does not apply to sales that are infrequent enough to be considered casual and isolated. The Department of Revenue has interpreted sales at nonprofit bazaars and rummage sales to be casual and isolated as long as the same criteria for the B&O tax exemption are met.

Fund-Raising Drives/Concessions. By rule of the Department of Revenue, income from fund-raising drives and concessions conducted by nonprofit organizations other than public benefit organization auctions is exempt from B&O tax and sales tax if the activities meet the criteria for exemption as bazaars and rummage sales.

Meals. By rule of the Department of Revenue, income to nonprofit organizations from the serving of meals for fund-raising purposes is exempt from B&O tax and sales tax if the meals are served no more frequently than once every two weeks and the gross receipts are \$1,000 or less.

A deduction is authorized from the B&O tax for governmental payments to nonprofit organizations and political subdivisions for health and social welfare services. In respect to child-related services, these services include activities to prevent juvenile delinquency and child abuse, including recreational activities, the care of orphans and foster children, and the day care of children.

Summary: The first \$20,000 received in a calendar year by a nonprofit organization from bazaars and rummage sales is exempt from the B&O tax and the sales are not subject to sales tax. A B&O tax exemption is provided for income from child care resource and referral services provided by a nonprofit organization.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)

First Special Session

Senate	46	0	
House	97	0	(House amended)

Second Special Session

Senate	47	0	
House	93	1	
House	94	0	(House reconsidered)

Effective: July 1, 1995

SSB 5742

C 258 L 95

Establishing the Washington state vocational agriculture teacher recruitment program.

By Senate Committee on Education (originally sponsored by Senators Rasmussen, Hochstatter, McAuliffe and Loveland).

Senate Committee on Education
House Committee on Education

Background: Washington has a rich agricultural history, and agriculture continues to be an important industry of the state. However, the number of persons entering the field of vocational agricultural education is declining. One way to reverse this decline is through a teacher recruitment program.

Summary: The State Board of Education (SBE) must design a Washington State Vocational Agriculture Teacher Recruitment Program. When designing the program, the SBE must consult with: the Higher Education Coordinating Board; the institutions of higher education; organizations interested in teacher recruitment, agriculture education or agricultural business; the Superintendent of Public Instruction; the State Board for Community and Technical Colleges; and the Department of Agriculture. The purpose of the program is to recruit students in grades 9-12, and adults who entered other occupations, to become future vocational agriculture teachers.

If specific funding is not provided by the Legislature, the act is null and void.

Votes on Final Passage:

Senate	46	0	
House	95	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: The act is null and void since no appropriation was made in the budget.

SB 5748

C 259 L 95

Expanding the state law against discrimination.

By Senators Prentice, Fraser, Sellar, Rinehart, Prince, Smith, C. Anderson, Franklin, Kohl, Heavey, Pelz and Wojahn; by request of Human Rights Commission.

Senate Committee on Financial Institutions & Housing

Background: The federal Fair Housing Act allows states to assume primary enforcement responsibility of the act if the state enacts fair housing laws that offer at least as much protection against discrimination as the federal act.

The Washington law against discrimination meets that standard generally, and the state Human Rights Commis-

sion has the responsibility for enforcing fair housing in Washington.

As amendments are made to the federal act, state law must keep pace if a state is to continue to have primary enforcement authority. Several amendments were made to the Washington law against discrimination in 1993 to reflect major amendments to the federal fair housing law that were made in 1988. These changes added prohibitions against discrimination on the basis of physical disability and the status of being a family with children. Additional amendments have been identified as being necessary to make state law consistent with federal law. Time periods for processing complaints under federal law differ slightly from the general schedule under the Washington law against discrimination.

Summary: The inadvertent omission of the phrase "families with children" from the intent section of the law is corrected. Additions are made to the definitions section to achieve consistency with federal law. The requirement to design and construct new buildings in conformance with the federal fair housing amendments is limited to "covered multifamily dwellings" and "premises."

An inaccurate reference to federal law is removed. The commission is given authority to adopt rules with respect to time requirements for processing unfair housing claims. These rules may not exceed or be more restrictive than federal law.

Exemptions from the provisions making it an unfair practice to refuse to allow a disabled person to make reasonable modifications to a dwelling or premises, or to refuse to make accommodations in rules or policies needed to allow a disabled person equal use and enjoyment of the dwelling are provided. These exemptions are: (1) the rental or lease of a single-family house by the owner, as long as the rental or lease occurred without the use of a broker and the owner has no more than three such single-family houses at one time; and (2) units in dwellings containing no more than four units if the owner maintains one of the units as his or her residence.

Other technical changes are made to achieve internal consistency and clarity.

Votes on Final Passage:

Senate	46	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 1, 1995

SSB 5751
FULL VETO

Prohibiting the purchase or consumption of liquor on licensed premises by persons apparently under the influence of liquor.

By Senate Committee on Law & Justice (originally sponsored by Senators Newhouse, Smith, Deccio, Owen and Winsley).

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

Background: State law places numerous restrictions on the sale, purchase, and consumption of liquor. One statute, which has been in effect since 1933, prohibits the sale of liquor to any person apparently under the influence of liquor. Liquor Control Board enforcement officers find that this is one of the most frequently violated statutes in the Alcohol Beverage Control Act.

While it is a misdemeanor to sell alcohol to an apparently intoxicated person, it is not a crime for the intoxicated person to purchase or consume liquor on any premises licensed by the board.

Summary: It is a civil infraction for a person apparently under the influence of liquor to purchase or consume liquor on any premises licensed by the Liquor Control Board. The fine for violating the statute is established at not less than \$100 and not more than \$200.

Votes on Final Passage:

Senate	35	13	
House	97	0	(House amended)
Senate	35	12	(Senate concurred)

VETO MESSAGE ON SB 5751-S

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5751 entitled:

"AN ACT Relating to alcoholic beverages;"

Substitute Senate Bill No. 5751 leaves a person "apparently under the influence of liquor" subject to a civil fine of between \$100 and \$200 for purchasing or consuming liquor in an establishment licensed by the liquor control board. Although the bill establishes a civil, rather than a criminal penalty for violating the statute, it nonetheless steps back from the state's policy as established in RCW 70.96A.010 declaring that, "alcoholics and intoxicated persons may not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages, but should...be afforded a continuum of treatment..."

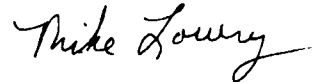
Substitute Senate Bill No. 5751 establishes violation based on the appearance of inebriation, rather than on an objective, measurable standard. The broad language of the bill raises the possibility of wide disparity in its application to the population generally and presents an unacceptably high potential to compound discrimination already faced by people with certain disability characteristics. An individual with slurred speech or an uneven gait may well give others the impression that they are inebriated in spite of the fact they have consumed no alcohol.

Although the intent of the bill is to provide equity in penalizing the purchaser as well as the server, this bill will likely result in confusion and misapplication. Stiff penalties would — and should — be assessed if a person attempts to drive a vehicle while intoxicated or would otherwise constitute a danger to others. However, if someone has made arrangements, such as designating a driver who remains sober, there is no legitimate public policy purpose behind their being fined solely on the basis of appearing to be under the influence of alcohol.

I have requested that the Liquor Control Board work with the drafters of this legislation over the interim to carefully tailor language that better achieves their objective. Moreover, I have asked the Liquor Control Board to analyze the current law and agency rules related to serving individuals who are apparently intoxicated. The misapplication of well intended rules due to appearance factors other than intoxication must be assessed and prevented.

For these reasons, I am vetoing Substitute Senate Bill No. 5751 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SB 5755

C 201 L 95

Concerning the taxation of property donated to a nonprofit entity.

By Senators Loveland, Newhouse, Spanel, Rasmussen and Haugen.

Senate Committee on Ways & Means
House Committee on Finance

Background: The state sales tax is paid on each retail sale 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 has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms, including purchases by mail order.

Exempt from use tax are articles of tangible personal property acquired by gift if the donor has paid a sales or use tax on the property. Computers and computer accessories and software donated to schools or colleges are also exempt from use tax.

Summary: A use tax exemption is provided for the use by a nonprofit charitable organization, the state, or a local governmental entity of tangible personal property that is donated to the nonprofit charitable organization, the state, or local governmental entity.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: May 1, 1995

SSB 5764

C 88 L 95

Adjusting the procedures of the redistricting commission.

By Senate Committee on Government Operations
(originally sponsored by Senator Cantu).

Senate Committee on Government Operations
House Committee on Government Operations

Background: Every ten years, in the year ending in one, a five-member redistricting committee is appointed to redraw the boundaries of legislative districts to reflect population changes as indicated by the decennial census. The redistricting commission is required to submit a redistricting plan to the Legislature not later than January 1 of the following year. The Legislature may amend the plan, but must do so within 30 days of submission and may only do so by a two-thirds vote in each house. When conducting its business, the commission is required to hold open meetings pursuant to the Open Public Meetings Act.

Because the Legislature has a limited amount of time to consider whether to amend a redistricting plan, it is proposed that the latest time for submission be changed to an earlier date. There is no clear authority for the commission to conduct any of its business in executive session.

Summary: The redistricting commission must submit a redistricting plan to the Legislature no later than December 15 of the year ending in one.

Votes on Final Passage:

Senate	45	0
House	97	0

Effective: July 23, 1995

SB 5767

C 89 L 95

Authorizing consolidation of municipal irrigation assessment districts.

By Senators Deccio and McCaslin.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Cities and towns may acquire and operate irrigation and water delivery systems, and may levy and collect special assessments against the property served by such systems to pay for maintenance or other costs related to acquisition of the system or of water rights. In some cities, a large number of irrigation systems have been acquired over the years, and their consolidation would make operations more efficient and would enable a more even distribution of annual assessments.

Summary: A city or town may consolidate separate irrigation assessment districts for the purposes of

construction, rehabilitation, and maintenance. The consolidated districts need not be in the same neighborhood, and any money previously received from assessments in the component districts may be deposited in a consolidated fund for future expenses within the consolidated district. A city or town may accumulate reasonable operating fund reserves to pay for system upkeep, repair, operation and maintenance, but the reserve may not exceed the cost of system construction, reconstruction, or refurbishment.

Votes on Final Passage:

Senate	45	0
House	97	0

Effective: July 23, 1995

SSB 5769

C 90 L 95

Revising provision on recovery of unemployment insurance overpayments.

By Senate Committee on Labor, Commerce & Trade
(originally sponsored by Senator Deccio; by request of
Employment Security Department).

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Currently, the Employment Security Department may only assess overpayments on unemployment insurance (UI) benefits within two years of the individual's "benefit year." A "benefit year" is the 52-week period in which a worker is eligible to receive unemployment benefits.

The department has requested that this time limit be extended due to the recent state and federal benefit extensions, which allow UI benefits to be paid beyond the normal individual benefit year.

Summary: The Employment Security Department may assess overpayments on UI benefits up to two years after the final payments are made to a worker, or two years after the individual benefit year, whichever is greater.

The act applies to job separations occurring after July 1, 1995.

Votes on Final Passage:

Senate	43	0
House	95	0

Effective: April 18, 1995

ESB 5770
PARTIAL VETO
C 381 L 95

Providing for unemployment insurance claimant profiling.
By Senators Pelz, Newhouse and Deccio; by request of
Employment Security Department.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Federal law was amended last year to require states to identify unemployment insurance claimants who are likely to exhaust their unemployment benefits and who need help finding employment. Those who fail to use available reemployment services, without justifiable cause, are to be denied benefits for the week of the failure.

Summary: If an unemployed worker fits the profile of workers likely to exhaust regular benefits, the individual must participate in reemployment services in order to receive benefits. This requirement does not apply if the individual completes the services, or if the Commissioner of Employment Security finds that there is justifiable cause for nonparticipation.

The Employment Security Department's requirements relating to commissioner approved training are modified. If an individual fits the department's profile of unemployed workers who are likely to exhaust their benefits, and is satisfactorily progressing in a training program approved by the commissioner, the individual is considered to be in training with the approval of the commissioner. These individuals, as well as dislocated workers, must be provided with information concerning the opportunity to receive unemployment insurance benefits while in training.

The department is required to collect and review follow-up information relating to the services provided individuals who fit the profile of exhaustees. The department may contract with public or private entities in conducting reviews and may disclose information or records as necessary. Any unauthorized use of confidential information subjects an individual to a \$5,000 penalty.

Votes on Final Passage:

Senate	44	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	94	0
Senate	43	2

Effective: May 16, 1995

Partial Veto Summary: The provisions relating to commissioner approved training are deleted.

VETO MESSAGE ON SB 5770

May 16, 1995

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, Engrossed Senate Bill No. 5770 entitled:

"AN ACT Relating to unemployment insurance claimant profiling;"

Engrossed Senate Bill No. 5770 provides the Department of Employment Security the authority to implement a federally mandated worker profiling system to identify long-term unemployed individuals and to refer them to re-employment services.

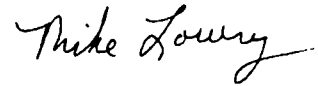
Section 3 of the bill contains language restricting training to certain classes of workers. According to the Attorney General, this change puts at risk the current training of some workers. This consequence was unforeseen and unintended when the bill was passed.

Section 3 also instructs the department to inform eligible individuals that they may receive benefits while they satisfactorily progress in training that has been approved by the commissioner of the department. This is a positive change. I will, by separate instrument, direct the department to comply with this provision.

For these reasons, I am vetoing section 3 of Engrossed Senate Bill No. 5770.

With the exception of section 3, Engrossed Senate Bill No. 5770 is approved.

Respectfully submitted,



Mike Lowry
Governor

SB 5771

C 120 L 95

Establishing unemployment insurance liability for third party employers.

By Senators Pelz, Newhouse and Deccio; by request of
Employment Security Department.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: For unemployment insurance (UI) purposes, some businesses are not liable for UI benefits if the workers are hired through temporary help agencies, employee leasing firms, or employee referral firms.

The department has frequently encountered instances involving third party employers where each business entity claims not to be the employer. The department requests that legislation be passed designating the entity that supplies the employees as the employer for unemployment insurance purposes.

Summary: For unemployment insurance purposes, the business entity supplying employees to another firm is

considered the employer. This includes temporary help agencies, employee leasing firms and employee referral agencies.

Votes on Final Passage:

Senate	44	0
House	97	0

Effective: July 23, 1995

ESB 5776

C 382 L 95

Integrating water resources and growth management.

By Senator Fraser.

Background: The Growth Management Act (GMA) and Shoreline Management Act regulate activities that may impact wetlands. However, the two acts contain different definitions of wetlands. The GMA excludes from the regulatory definition those wetlands artificially created from non-wetland sites. The Shoreline Act does not provide for such an exclusion. Neither act provides guidance on the standards or methods to be used in delineating the boundaries of regulated wetlands.

The Shoreline Act directs local governments to adopt land use plans and permit programs regulating activities within 200 feet of Washington's saltwater shorelines and larger lakes and rivers. These programs overlap with the land use planning and regulatory requirements implemented by local governments under GMA, and a Governor's Regulatory Reform Task Force has recommended legislation in the 1995 session to integrate these programs (House Bill 1724).

The Environmental Hearings Office (EHO) consists of four quasi-judicial hearing boards: the Pollution Control Hearings Board, the Forest Practices Hearings Board, the Shorelines Hearings Board, and the Hydraulics Appeals Board. Each board has jurisdiction as set forth in statute to hear appeals in certain environmental cases arising from decisions by local governments or state agencies.

The GMA created three regional Growth Management Hearings Boards with jurisdiction to hear appeals of local government decisions on GMA planning matters within their region. Appeals of Growth Board decisions may be taken to Thurston County Superior Court, although legislation has been proposed in the 1995 legislative session to provide the option to appealing parties to file the appeal in other superior courts (House Bill 1724).

Under the state Administrative Procedure Act, appeals of EHO board decisions are heard in superior court. However, the superior court may certify a case directly to the Court of Appeals under certain conditions. The Court of Appeals may accept or reject a certified case for direct review.

Although the EHO boards' enabling statutes no longer distinguish between formal and informal hearings, a few references to them still appear in the statutory code.

Summary: A definition of "wetlands" is added to the Shoreline Act that is identical to the definition under the GMA. Excluded from the wetlands definition under both acts are wetlands created after July 1, 1990 that were unintentionally created as the result of road construction. The Department of Ecology is required to adopt by rule a manual for the delineation of wetlands regulated under the Shoreline Act and the GMA. The manual must implement and be consistent with the manual used by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency on January 1, 1995. If those federal agencies change the manual or adopt a different manual, the department may adopt rules implementing those changes.

Nothing in section 104 of Engrossed Substitute House Bill 1724, relating to integrating local shoreline programs into local GMA comprehensive plans, shall be construed to authorize a local government to adopt shorelands regulations inconsistent with the Shoreline Act.

The Administrative Procedure Act is amended to authorize the EHO boards and the Growth Management Hearings Boards to certify a case directly to the Court of Appeals when an appeal to superior court would result in undue delay, and: (1) the case involves fundamental and urgent matters of statewide or regional concern; or (2) the case is likely to establish a significant precedent. If the Court of Appeals declines to accept a case, the aggrieved party may appeal the case to superior court.

All remaining references to informal and formal hearings in the EHO enabling statutes and Shoreline Act are deleted.

A city may use special assessments imposed in a local improvement district to finance connection charges, capacity charges, and acquiring rights to use of property, facilities, or other improvements.

Votes on Final Passage:

Senate	43	2
House	94	0

Effective: July 23, 1995

SSB 5780

C 161 L 95

Regulating viatical settlements.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Deccio and C. Anderson).

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

Background: Viatical settlements are agreements allowing terminally ill people to obtain a portion of their

life insurance benefits while they are still living. The funds are often used to pay for medicine, medical treatment, or in-home care. Many of those who enter into such agreements are persons with AIDS or cancer.

In general, a viatical settlement works as follows: A viatical settlement provider buys a life insurance policy from a terminally ill insured person for a portion of the face value of the policy. In return, the provider is named by the insured as the sole beneficiary of the policy. Upon the death of the insured, the provider collects the full value of the policy.

The numbers of viatical settlements and viatical settlement providers have increased over the past few years. There has been a number of publicized instances in which less than scrupulous companies have marketed viatical settlements as investments without fully explaining potential profits and risks to all parties. Because of the financial risks and also the privacy issues involved, it has been suggested that viatical settlements should be regulated.

Summary: Persons or businesses involved in the process of buying the life insurance policy of a terminally ill person must be licensed by the Insurance Commissioner. This includes those who offer or advertise the availability of viatical settlements, negotiate viatical settlements, or actually purchase the policies. Licenses are issued to applicants who provide a detailed and adequate operation plan, and who have experience, education, or training in a relevant field. The commissioner may suspend, revoke, or refuse to renew a license for cause. The commissioner may examine the books and business records of licensees. However, information about the owners of life insurance policies that are sold now or in the future is confidential and not subject to disclosure by the commissioner absent a court order. Licensees must file annual reports.

All viatical settlement contract forms must be filed with and approved by the commissioner. Compensation rates must also be filed with the commissioner. Licensees must maintain records of all transactions and advertising.

Viatical settlement providers must disclose certain information to owners of life insurance policies, such as alternatives, potential tax implications, and the right of rescission, before the settlement contract is executed. Viatical settlement providers must also obtain certain documents, such as statements from doctors and witnesses, before entering into a contract.

Insurance policies that are purchased by a viatical settlement provider may not be conveyed to an entity not licensed by the commissioner.

A violation of any provision of this act is a violation of the Consumer Protection Act.

Votes on Final Passage:

Senate	44	0
House	84	11

Effective: July 23, 1995

SSB 5795
FULL VETO

Authorizing an alternate method for reducing city limits for cities with over fifty thousand population.

By Senate Committee on Government Operations (originally sponsored by Senator Heavey).

Senate Committee on Government Operations
House Committee on Government Operations

Background: The question of reduction of city limits can be submitted to the voters by either a resolution of the city legislative body or by a petition signed by at least 10 percent of the voters voting at the last general municipal election. The question of reduction of city limits is voted on by all voters of the city and must receive a three-fifths favorable vote. This action may be subject to potential review by a boundary review board.

Summary: For cities with a population over 400,000 (Seattle), an alternative method for reduction of city limits is established as follows: (1) the area to be excluded must contain at least 10 percent of the qualified voters of the city; (2) the petition must be signed by at least 25 percent of those in the area proposed for exclusion voting at the last general municipal election; and (3) only the voters of the area proposed for exclusion vote on the question of reduction of city limits. This alternative procedure is not subject to potential review by the boundary review board.

Votes on Final Passage:

Senate	30	14	
House	58	39	(House amended)
Senate			(Senate refused to concur)
House	62	31	(House receded)

VETO MESSAGE ON SB 5795-S

May 16, 1995

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5795 entitled:

“AN ACT Relating to reduction of city limits;”

Substitute Senate Bill No. 5795 would reduce the threshold for areas of the City of Seattle to withdraw from the city. Under current law, such withdrawals require a petition signed by ten percent of the registered voters in the entire city in the last general election. In the election that would follow, the city as a whole would vote on the proposal. The proposal would require a sixty percent affirmative vote for approval.

This bill would make such withdrawals considerably easier. It would require signatures of at least twenty-five percent of the registered voters in the area wishing to withdraw. The area wishing to withdraw would have to be at least ten percent of the population of the city as a whole. In the election, only the area seeking to withdraw would be able to vote on the proposition.

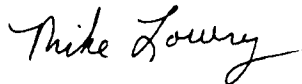
The state has adopted laws in a number of areas to allow local communities to change the nature of local governance to meet the changing needs of local communities. It is appropriate that avenues be available to allow local citizens to seek new ways to address their common governance needs.

Substitute Senate Bill No. 5795, however, has the potential to create substantial unintended problems. It would not only allow any area with ten percent of the population of the city to move to separate from the city, but it would also eliminate the jurisdiction of the boundary review board over that separation. This opens the possibility of multiple, overlapping proposals for boundary changes with no authorized way to alleviate the boundary confusion. Similarly, in an effort to provide an adequate tax base, competing proposals for new cities could vie for high tax income areas — such as downtown office towers or retail centers — with no way to resolve their rival claims.

While this surely is not the intent of the bill's proponents, the current provisions would make such an outcome a very real possibility.

For these reasons, I am vetoing Substitute Senate Bill No. 5795 in its entirety.

Respectfully submitted,



Mike Lowry
Governor

SSB 5799

C 260 L 95

Modifying adult family homes licensure.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators McDonald, Wojahn, Cantu and West).

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

Background: Adult family homes are alternatives to institutional care for many elderly and developmentally disabled people that provide a higher degree of independent living at a much lower cost. Since 1989, the stated policy of the Legislature has been to encourage the establishment of humane, safe, and home-like adult family homes for people with functional limitations.

Current law requires adult family homes to be licensed by the Department of Social and Health Services (DSHS). DSHS regulates adult family homes through rules overseen by the Aging and Adult Services Administration.

Summary: The findings and intent section of the adult family homes chapter is expanded to recognize that adult family homes serve different populations, such as the elderly and the developmentally disabled, which each have different needs and capacities.

The Department of Social and Health Services (DSHS) is directed to adopt rules that recognize the differences in the populations and that are appropriate to those differing needs and capacities. DSHS must consult with all of its divisions and administrations serving the various populations living in adult family homes when developing the rules.

The definition of adult family home provider is clarified to expressly include corporations, associations, partner-

ships, and limited liability companies. Minimum qualifications are established for the entity providers and modified for individual providers.

Included in the minimum qualifications for all providers are the satisfactory completion of a department approved training and continuing education training as specified by the department, special care training, and a complete criminal background check. The department is required to establish, by rule, standards for licensing non-resident providers and multiple facility operators that must be equal to recognized national certification standards. Adult family home providers are required to ensure that any person who has unsupervised access to any resident is given a criminal background check, that activities are offered for residents in the home, and that staff are competent and receive necessary training.

The limit on the number of homes a provider may operate is removed, and DSHS is given the authority to establish by rule the type and number of homes a provider may operate.

All adult family homes must be registered with the Department of Health and, by January 1, 1996, are covered under the Uniform Disciplinary Act.

Votes on Final Passage:

Senate	48	1	
House	96	0	(House amended)
Senate	39	0	(Senate concurred)

Effective: July 23, 1995

January 1, 1996 (Sections 7-11)

SSB 5800

C 383 L 95

Recognizing that financial savings from efficiencies in the developmental disabilities program should be redirected within the program for community-based services.

By Senate Committee on Ways & Means (originally sponsored by Senators McDonald, Wojahn, Cantu, West, Rinehart, Pelz and Bauer).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Division of Developmental Disabilities in the Department of Social and Health Services will serve an average of about 11,500 children and adults each month this biennium, with a total state and federal budget of \$646 million. About 1,400 people will be served in one of the five state-operated institutions, or Residential Habilitation Centers, at a cost of \$303 million. The other 10,000 people will receive residential, employment, day activity, respite care, or other community support services at a cost of about \$336 million.

After controlling for inflation, the Division of Developmental Disabilities (DDD) budget has increased by \$278 million since the 1983-85 biennium, or by about 75

SSB 5804

percent. The number of persons receiving DDD services increased by 50 percent during this same ten-year period.

Despite these increases, because of state funding limitations many children and adults with developmental disabilities do not get the services they and their families need, and that number is growing. For example, in June 1994 there were approximately 3,400 developmentally disabled adults living with a parent or other family member who was not receiving any publicly-funded help with their care. This is an increase of 700 since the end of 1991, when 2,700 developmentally disabled adults were living at home without any family support.

During the decade prior to the 1993-95 biennium, there were very few program reductions or efficiencies in developmental disabilities. In 1993-95, there were approximately \$42 million of state general fund reductions and efficiencies, which were balanced by \$44 million of state general fund cost increases. However, only about \$20 million of those increases were to provide community services for additional people; the balance went to covering the carry-forward costs of 1991-93 salary and vendor rate increases. Under the Governor's proposed 1995-97 budget, there would be approximately \$19 million of state general fund reductions and efficiencies in the developmental disabilities budget (including \$8 million of federal fund shifts), which would be balanced by \$53 million of increased state general fund expenditures, of which about \$22 million would be used to serve additional persons in the community.

Summary: It is the intent of the Legislature that any financial savings from reductions and efficiencies in the Division of Developmental Disabilities budget be redirected to provide public or private community services for persons who otherwise would be unserved or unidentified.

Votes on Final Passage:

Senate	45	0	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 23, 1995

SSB 5804

C 91 L 95

Clarifying procedures for release of a power of appointment.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Long; by request of Secretary of State).

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

Background: Effective release of power of appointment in probate requires a release instrument to be delivered to a

trustee of the property to which the power relates, and the person holding the property. Additionally, a copy of the instrument may be delivered to the Secretary of State, which effectively constitutes notice of release to all other persons.

Publication in a legal newspaper of a release of power in lieu of delivering it to the Secretary of State may more effectively implement the notice requirements for these instruments.

Summary: Release of power of appointment in probate is effective when the release instrument is delivered to a trustee of the property and the person holding the property. Additionally, a copy of the instrument may be published in a legal newspaper at least once within 30 days of delivery in the county in which all or the greatest portion of the property is located. This publication serves as a notice of release to all other persons.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SB 5806

C 121 L 95

Allowing the superintendent of public instruction to delay the time at which school district budgets are made public if the state's operating budget is not finally approved before June 1st.

By Senators Johnson and McAuliffe.

Senate Committee on Education
House Committee on Education

Background: School districts must follow a timeline provided in state law when preparing, adopting and filing the district's annual budget. Each school district must prepare its budget for the upcoming fiscal year before July 10. Second-class districts must submit their budgets to the educational service district by July 15 for review and comment. First-class school districts must submit their budgets to the educational service district by July 20 for review and comment.

School districts' budgets are based on funds appropriated by the Legislature in the state's operating budget. Sometimes the operating budget is not passed by the Legislature, and signed by the Governor until after June 1.

Summary: All school districts must submit their budgets to the appropriate educational service district by July 10 for review and comment. If the state's operating budget is not approved until after June 1, the Superintendent of Public Instruction has the authority to delay the date when each

district must submit its district budget to the educational service district.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: April 20, 1995

ESSB 5820

C 92 L 95

Penalizing theft of telecommunication and cable services.

By Senate Committee on Energy, Telecommunications & Utilities (originally sponsored by Senators Sutherland, Finkbeiner, Snyder, Smith and Quigley).

Senate Committee on Energy, Telecommunications & Utilities

House Committee on Energy & Utilities

Background: Theft of subscription telecommunications services, including cable television and cellular telephone service, has increased dramatically in recent years.

The cellular industry estimates that up to 40 percent of all cellular air time is being stolen. Cable operators estimate that some 5 percent of households in Washington State are receiving some level of service without authorization or payment. Moreover, they find that organized theft rings are increasingly involved in the sale of equipment designed to allow viewers to avoid payment for subscription services.

Because franchise fees paid to local governments by cable companies are based on percentages of the companies' gross revenues, theft of cable services negatively impacts local government budgets.

Under current state law, theft of cable is a gross misdemeanor. State laws do not address theft of services from cellular, or from subscription services other than cable. Services such as direct broadcast satellites and microwave-delivered MMDS (multichannel multipoint distribution services), which provide cable-like programming to residents in many parts of Washington, are also vulnerable to theft.

Summary: Current statutes are amended to expand theft and unlawful sale of cable to include theft and unlawful sale of all subscription video services. New provisions are added dealing with theft of telecommunications services, and with the manufacture and sale of telecommunications devices without authorization of the service provider.

Prohibitions on theft of subscription video services are clarified to cover those situations when a person seeks to avoid payment by obtaining subscription services through deception or fraud, by knowingly using or altering decoders or other equipment, or by possessing devices designed to receive and decode scrambled signals.

Provisions are broadened dealing with unlawful sale of subscription services to cover situations where a person acting with intent to avoid payment publishes or advertises for sale a plan to receive a company's service without permission, or manufactures, imports or sells a device or kit to facilitate such reception.

A class C felony is created for theft of telecommunications services, which includes: (1) the intentional use of a device to transmit or receive telephone or electronic telecommunications without having a prior agreement with a service provider for payment, and (2) possession of a communication device with intent to avoid payment.

Class C felonies are created for unlawful manufacture and unlawful sale of a telecommunications device. Unlawful sale includes the sale of any data or computer software when the seller knows it is going to be used in the manufacture of a telecommunications device intended to be used to avoid payment for telecommunication services.

Unlawful sale of subscription services is reclassified from a gross misdemeanor to a class C felony. Unlawful sale of subscription services, theft of telecommunications services, and unlawful manufacture of a telecommunications device are added to the lists of crimes covered by the Criminal Profiteering Act.

New civil penalties are provided for theft and unlawful sale of subscription video service, and for theft, unlawful manufacture, and unlawful sale of telecommunication devices and services.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 23, 1995

SSB 5835

C 93 L 95

Changing provisions relating to restraining orders.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson, Smith, Roach, McCaslin, Schow, Long and Winsley).

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

Background: A police officer may make a warrantless arrest of a person if the officer has probable cause to believe that the person has knowingly violated a restraining order issued pursuant to a criminal or civil action involving domestic violence.

Two statutes in the chapters concerning divorce and child custody also give the courts power to issue restraining orders. Those two sections are not specifically referenced in the statute granting police officers authority to arrest violators of restraining orders. Concern has been expressed that the lack of express statutory authority to arrest violators of restraining orders issued under those two

sections exposes police officers to civil liability for improper arrest.

The statutes that allow courts to enter restraining orders require the orders to contain a provision which gives notice to the person being restrained that a violation of the order is a criminal offense, and that violating it will subject the person to arrest. Those statutes also provide that the court has authority to forward the order to law enforcement agencies for inclusion within a computer-based criminal intelligence information system.

Summary: The statute that allows police officers to arrest without a warrant those persons who violate restraining orders is amended to reference two statutes in the domestic relations chapters that also allow courts to issue restraining orders. Those two statutes are also amended to require that orders entered contain a provision notifying the person being restrained that violating the order is a criminal violation. They are further amended to require courts to forward the restraining order, and either the law enforcement information sheet or proof of service of the order, to a law enforcement agency for inclusion within the computer-based criminal intelligence information system.

Votes on Final Passage:

Senate 48 0
House 97 0

Effective: July 23, 1995

SB 5848

C 202 L 95

Providing for retrocession of criminal jurisdiction by the Tulalip Tribe.

By Senator Smith.

Senate Committee on Law & Justice
House 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. Retrocession requires agreement among the state, the 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.

Over the past nine years, five tribes in Washington have sought and received retrocession of state jurisdiction over criminal acts by Indians committed on tribal lands. Those tribes have become eligible for federal law enforcement funding. Tribes subject to full state criminal jurisdiction are not eligible for federal law enforcement money and

some local governments have experienced difficulties in meeting the law enforcement needs on Indian reservations.

Retrocession will make the Tulalip Tribes eligible for federal law enforcement funding. It is believed that federal funds will make it possible for the Tulalip Tribes to provide better law enforcement coverage on the Tulalip Reservation.

Summary: The state retrocedes criminal jurisdiction to the Tulalip Tribes. The retrocession applies only to crimes committed by Indians on tribal lands.

The Tulalip Tribes are 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:

Senate 40 5
House 84 11

Effective: July 23, 1995

2ESB 5852

C 20 L 95 E1

Revising the presidential primary.

By Senators Drew, Sheldon, Wood, Prince, Oke and Winsley; by request of Secretary of State.

Senate Committee on Government Operations
House Committee on Government Operations

Background: A statewide initiative in 1989 established a presidential preference primary. The primary occurs in a presidential election year on the fourth Tuesday of May or on such other date as may be selected by the Secretary of State to advance the concept of a regional primary.

A separate ballot is prepared for each party that has candidates in the primary.

To receive a ballot, a voter shall sign a ballot request form and declare the party primary in which he or she wishes to participate. The request forms are maintained in centralized containers by the county auditor for a period fixed by the Secretary of State or federal law.

The results of the primary shall determine the percentage of delegate positions to be allocated to each candidate. To the extent possible, delegates shall be apportioned among the state's congressional districts. Candidates for a delegate position committed to a particular presidential candidate must sign a statutory pledge that they will vote for the nomination of that presidential candidate on the first two convention ballots and work to advance that presidential candidate's cause unless released by the candidate.

Unless national party rules provide otherwise, delegate positions to the national nominating convention shall be apportioned among those candidates receiving at least 15 percent of the vote on the basis of the percentage of vote they received of the total vote received by candidates of

their party who received more than 15 percent of the vote. If no candidate on a political party ballot receives 15 percent or more of the total votes cast, the state committee of the party shall determine how to allot delegate positions.

County auditors may consolidate precincts for a presidential primary if the consolidation does not require a voter to go to a location different from that of the last regular election.

Summary: No later than August 1 of the year preceding a presidential election year, the Secretary of State may propose an alternative to the fourth Tuesday of May as the date for a presidential primary. No later than September 1 of the year preceding a presidential election year, the state committee of any major political party that is going to use the primary results for candidates of that party may propose an alternative date for that primary.

If an alternative primary date is proposed by either the Secretary of State or a major political party, the alternate date must be considered and approved or rejected no later than October 1 of the year preceding a presidential election year by a two-thirds majority of a committee consisting of the chair and vice-chair of the state committee of each major political party, the Secretary of State, the majority leader and minority leader of the Senate, and the Speaker and minority leader of the House of Representatives.

If an alternative presidential primary date is approved, the Secretary of State is authorized to adopt rules to adjust applicable deadlines.

Unless otherwise required to accommodate national or state rules of a major political party, the procedures and ballots for a presidential primary must be the same as is required for a state partisan primary. Nonaffiliated voters must be provided with an alphabetical list of all qualified candidates of all parties.

A major political party may request that a specified party declaration be subscribed by voters in order to receive a separate ballot listing only candidates of that party. Votes cast on separate party ballots may be used by a major political party in its allocation of delegates under the rules of that party. For a political party that requires a specific voter declaration, the Secretary of State is required to prescribe rules for providing to the state and county committees of that party a copy of the declarations or a list of the voters who participated in the presidential nominating process of that party.

A notice, in large type, must appear on the face of each presidential primary ballot or on or about each voting device stating that any ballot with votes for more than one candidate is void.

The requirement that the state of Washington assume all costs of holding a presidential primary when no other measures or positions appear on the ballot is made subject to available funds specifically appropriated for this purpose. The Secretary of State is required to include in his or her biennial budget a request of a specific appropriation to reimburse auditors for the cost of the primary.

Inconsistent provisions regarding the process for requesting party ballots, and provisions authorizing consolidation of precincts and allocating delegates are repealed.

Votes on Final Passage:

Senate 49 0

First Special Session

Senate 45 2

House 89 8

Effective: June 15, 1995

SSB 5854

C 389 L 95

Requiring that health plans must allow women a choice of primary care providers.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Haugen, Spanel, Wood, Prentice, Winsley, Rasmussen, Hale, Kohl, McCaslin, Fairley, Long, Loveland, Franklin, Roach, Moyer, Quigley, McAuliffe, Drew and Wojahn).

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

Background: As health insurance moves more rapidly toward integrated delivery systems that attempt to control costs by regulating enrollees' access to certain types of health care providers, many have become concerned that they may lose access to the providers they use most frequently.

A 1993 Gallup poll found that most women consider their obstetrician/gynecologist as their primary health care provider, and the provider from whom they have had their most recent examination. Almost 80 percent of these women currently access their obstetrician/ gynecologist directly, without going through a gatekeeper. Almost all would object to having to use a gatekeeper.

Summary: Health carriers as defined in the act must ensure that female patients have direct access to women's health care services from the practitioner of their choice. Women's health care practitioners include at least those generally recognized women's health specialists licensed as physicians, osteopaths, their assistants, or advanced registered nurse practitioners.

Health carriers may restrict women patients to seeing only those practitioners who have signed agreements with the health care carrier.

Votes on Final Passage:

Senate 48 0

House 97 0 (House amended)

Senate (Senate refused to concur)

SB 5857

Conference Committee

House	94	2
Senate	43	0

Effective: July 23, 1995

SB 5857

C 94 L 95

Revising the procedure for identifying subcontractors for specified public works contracts.

By Senators Morton, Pelz, Heavey, McCaslin, Fraser, Moyer, Hochstatter, Deccio, Palmer and Schow.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Those who bid on any public works contract of \$100,000 or more must submit as part of the bid, or within one hour after the published bid submittal time, the names of all subcontractors whose subcontract amount is more than 10 percent of the contract price. Failure to list these subcontractors in the manner prescribed by statute renders the bid void.

Summary: Subcontractors whose subcontracts are 10 percent of the bid price must be listed. The format used for listing is more easily understood by the general public.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 23, 1995

ESSB 5868

C 122 L 95

Providing mobile home relocation assistance.

By Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Fraser, Cantu, Winsley and Rasmussen; by request of Department of Community, Trade, and Economic Development).

Senate Committee on Financial Institutions & Housing
House Committee on Trade & Economic Development

Background: The Mobile Home Relocation Act, enacted in 1989, provided relocation assistance to tenants of mobile home parks scheduled for closure or conversion to another use. Assistance could be provided from two sources: funds from the Mobile Home Relocation Assistance Fund (MHRAF), and/or funds paid by the owner of the mobile home park. For a low-income tenant, two-thirds of the relocation assistance was to be paid by the MHRAF and one-third by the park owner. A tenant who did not qualify as low-income was eligible to receive the one-third payment from the park owner only. In 1991, legislation

was enacted restricting eligibility for relocation assistance to low-income tenants only.

The MHRAF consists of a \$50 fee imposed on the transfer or elimination of a mobile home title. This fee was enacted in 1990. In addition, legislation in 1991 imposed a \$5 annual fee on mobile home park owners for each occupied lot in their mobile home parks. However, a lawsuit filed at the time this provision was enacted caused the state to withhold the collection of this fee, pending the outcome of this suit. Currently, there is approximately \$1.3 million in the MHRAF that consists only of the fees collected on the transfer or elimination of mobile home titles.

In 1993, the Supreme Court of Washington found the monetary payment requirements for mobile home park owners contained in the Mobile Home Relocation Act to be unconstitutional. The remainder of the act was also invalidated by the court decision.

Summary: A tenant who owns his or her mobile home at the time a mobile home park is closed or converted is eligible to obtain relocation assistance from the MHRAF, upon approval of an application filed with the Department of Community, Trade, and Economic Development. Tenants of all income levels are eligible for assistance under the act.

Tenants of parks closed after June 30, 1991, and before January 1, 1995, are entitled to assistance from the MHRAF. The maximum levels of assistance that can be paid to an individual are outlined. The actual amount of assistance provided from the MHRAF is determined by the Department of Community, Trade, and Economic Development, and is based on the number and amount of valid claims filed by December 31, 1995, and the total funds available to pay such claims.

Tenants of parks closed after December 31, 1995, are entitled to assistance from the MHRAF on a first-come, first-served basis as funds remain available.

The amount of assistance provided from the relocation fund is reduced by any amount a tenant receives from another source for relocation.

Conditions under which a tenant is ineligible for relocation assistance are outlined.

Any interest earned on the balance of the MHRAF is retained in the fund.

Votes on Final Passage:

Senate	48	0
House	95	2
House	97	0

(House reconsidered)

Effective: April 20, 1995

SB 5871

C 95 L 95

Clarifying the terms of the members of the advisory board of plumbers.

By Senators Pelz, Hale, Fraser, Newhouse and Deccio.

Senate Committee on Labor, Commerce & Trade

House Committee on Commerce & Labor

Background: The State Advisory Board of Plumbers is composed of three members appointed by the Governor. One member is a journeyman plumber, one is a person conducting a plumbing business, and one is a member of the general public who is familiar with the business and trade of plumbing. The members serve in staggered three-year terms.

Summary: The initial terms of the board members are clarified. It is further clarified that a member whose term expires continues to serve until his or her replacement is appointed.

Votes on Final Passage:

Senate	45	0
House	97	0

Effective: April 18, 1995

ESB 5873

C 384 L 95

Raising the fine for parking in places reserved for physically handicapped persons.

By Senators Fairley, Owen, Fraser, Smith, Prentice, Kohl and Oke.

Senate Committee on Law & Justice

House Committee on Law & Justice

Background: Current law allows the director of the Department of Licensing to grant special parking privileges to any person with a disability that substantially limits his or her ability to walk. These persons are issued special license plates or placards that allow them to park in parking places reserved for physically disabled persons.

Any person who is not authorized to park his or her car in a parking place reserved for physically disabled persons is subject to a base fine of \$50. It is suggested that the frequency of unauthorized persons using disabled parking places would decrease if a greater monetary penalty were imposed.

Summary: Any person who parks an unauthorized vehicle in a parking place reserved for disabled persons is subject to a monetary penalty of \$175. The same monetary

penalty applies to disabled parking violations occurring on the state capitol grounds.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	92	1
Senate	45	0

Effective: July 23, 1995

ESB 5876

C 162 L 95

Making population determinations and projections.

By Senators Haugen and Winsley.

Senate Committee on Government Operations

House Committee on Government Operations

Background: Each county that plans under the Growth Management Act must designate an urban growth area within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Based upon the population growth management planning projection made for the county by the Office of Financial Management (OFM), the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding 20-year period.

At least once every ten years, OFM must prepare 20-year growth management planning population projections for each county planning under the Growth Management Act and must review these projections with each county.

There are conflicting opinions as to whether an OFM projection is a floor, ceiling, or a floor and a ceiling. Questions have also been raised as to the accuracy of these OFM projections.

Summary: The 20-year growth management planning population projections prepared by OFM must also be reviewed with the cities within the county for which the projection is prepared. The county and its cities may provide OFM relevant information on which OFM must consider and comment before adoption.

Each projection may be expressed as a range, the middle range representing OFM's most likely projection. A city or county may petition OFM to revise the projection. OFM must complete the first set of ranges for every county by December 31, 1995.

A comprehensive plan adopted or amended before December 31, 1995 is not considered to be in noncompliance with the OFM population projection if the projection in the comprehensive plan is in compliance with the range to be adopted by OFM.

ESSB 5880

Votes on Final Passage:

Senate 45 0
House 96 0

Effective: April 27, 1995

ESSB 5880

C 308 L 95

Authorizing retirement to care for a disabled spouse.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Spanel and Winsley).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: A member of the Public Employees' Retirement System (PERS) Plan I can retire after 30 years of service at any age, after 25 years of service at age 55 and after five years of service at age 60.

Summary: A member of the Public Employee's Retirement System Plan I who has at least 20 years of service and whose spouse is mentally or physically incapacitated may retire early if the incapacity is likely to be permanent, the spouse needs 24 hour in-home care and the member submits an application for retirement by July 1, 1995. The member receives an actuarially reduced benefit.

Votes on Final Passage:

Senate 48 0
House 94 0 (House amended)
Senate 47 0 (Senate concurred)

Effective: May 9, 1995

SB 5882

C 123 L 95

Concerning the disposal of surplus property by a governmental entity.

By Senators Haugen, Moyer, Loveland and Deccio.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Before disposing of surplus property with an estimated value of more than \$5,000, the state or a political subdivision must hold a public hearing in the county where the property is located. Among other requirements, at least ten days but not more than 25 days prior to the hearing, there must be published a public notice stating the date, time, and place of the hearing at least once in a newspaper of general circulation in the area where the property is located. If the surplus is real

property, the public news release must also describe the proposed use of the lands involved.

Summary: The estimated value of surplus property at which the state or a political subdivision must follow formal hearing and notice requirements for disposal is raised from \$5,000 to \$50,000.

Votes on Final Passage:

Senate 43 0
House 97 0

Effective: July 23, 1995

ESSB 5885

C 311 L 95

Modifying services to families.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Owen, Kohl, Haugen, Rasmussen, Franklin, Bauer and Winsley).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Children & Family Services

Background: At the end of the 1994 legislative session, a council was created to conduct a comprehensive review of the Juvenile Justice Act of 1977. The council was divided into four work groups covering dependencies, youth-in-crisis, juvenile offenders, and prevention strategies. The Dependency Work Group developed a series of recommendations that are incorporated in this legislation.

The recommendations include expanding family preservation services, clarifying and modifying the confidentiality laws regarding child welfare records, strengthening the child abandonment statute, and regulating the access to departmental and judicial records.

Summary: The current family preservation services are renamed "intensive family preservation services." A new class of services called "family preservation services" is created, which may be delivered in the home or in the community. The services include respite care, parenting skills, and the promotion of the child and family's well-being.

"Family preservation services" must ensure the safety of the child and strengthen the family, empower the family to become self-sufficient, utilize community supports, and locate and refer the family to basic support services. The services may be provided to children and their families when the child faces a "substantial likelihood of out-of-home placement" due to child abuse or neglect, a serious threat to their health, safety or welfare, or family conflict.

"Intensive family preservation services" share many of the characteristics of the new services, but are available sooner, have smaller caseloads, and are limited to 40 days

in duration. The services are provided when the child is in "imminent risk" of out-of-home placement.

The Department of Social and Health Services (DSHS) is required to coordinate and plan the implementation and expansion of family preservation services. DSHS must provide the services through outcome-based, competitive contracts with social service agencies. The department may transfer funds appropriated for out-of-home care to purchase preservation services for children at imminent risk of out-of-home placement.

The department is required to use available resources to train its personnel in skills such as risk assessment, case management, crisis intervention, and professional collaboration. DSHS and the Office of the Administrator for the Courts provide training to judges and service providers regarding the use of preservation services.

A judicial process is created for the department's use in compelling the release of records requested by the department.

The county coroner or medical examiner are mandated reporters of suspected abuse or neglect.

To assist in finding relatives with which to place a child subject to a dependency proceeding, the court may require the department to notify specified relatives of the fact-finding hearing. If a child resides in a foster home for more than six months prior to a permanency planning hearing, the court must ensure the foster parent receives notice of the hearing.

A foster-home license may be issued when it is limited to specific children, the child has a relationship with the applicant, and it is not issued for more than 90 days.

A rebuttable presumption of abandonment is created when due diligence is used to locate the parent, and there is no contact with the child and parent for three months. A guardianship entered under the dependency statutes may be modified or terminated upon a showing of a "substantial" change of circumstances, and the change is in the best interest of the child.

When requested by a new school, the child's school records from his or her previous school must be transmitted within two school days. The State Board of Education is required to adopt a rule of discipline for the failure to properly transmit the records.

Votes on Final Passage:

Senate	45	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	94	0
Senate	34	10

Effective: July 23, 1995

ESB 5888

C 124 L 95

Revising considerations for charges for sewerage and storm water control systems.

By Senator Sutherland.

Senate Committee on Energy, Telecommunications & Utilities

House Committee on Energy & Utilities

Background: Counties and cities are separately authorized to provide various utility services, including water, sewerage and storm water control services. These local governments are also authorized to fix the rates and charges of these services.

In setting rates, the legislative bodies of local governments may classify customers based on various factors. These factors include the difference in cost to serve or maintain service to classes of customers, the difference in quantity or quality of the service provided, capital contributions to the system, and other similarly related differences.

Concern has been raised that local governments may lack the statutory authority to allow different rates for customer classes that require large capacity coupled with proportionately smaller usage.

Summary: When county governments fix rates for water, sewerage and storm water control services, customers may be classified by the nonprofit public benefit status of the land user. When cities or towns fix rates for systems of sewerage, customers may be classified by the nonprofit public benefit status of the land user.

Votes on Final Passage:

Senate	44	4
House	97	0

Effective: July 23, 1995

SB 5894

C 125 L 95

Planning for department of transportation wetlands.

By Senators Prentice, Owen, Haugen, Wood, Kohl, Fairley, Sellar, Rasmussen, Oke, Schow and Winsley.

Senate Committee on Transportation

House Committee on Transportation

Background: A number of recommendations were made in the 1994 "Environmental Cost Savings and Permit Coordination Study" related to wetlands. One finding was that the Department of Transportation is not prepared to assume the land management responsibilities related to the long-term monitoring and maintenance of wetlands. Another was the recommendation that wetlands be

SB 5895

mitigated on a watershed basis and wetland banks be utilized.

Summary: The Department of Transportation is required to develop a strategic plan for the long-term monitoring and maintenance of wetlands owned by the department. The plan must consider an evaluation of: (1) the costs for monitoring and maintaining wetlands; (2) the feasibility of developing wetland banks; (3) the feasibility of selling, contracting, or transferring title of department owned wetlands to other public agencies or nonprofit environmental corporations; (4) the barriers prohibiting mitigation of wetlands on a regional or watershed basis; and (5) how wetland habitat can be valued and quantified, and how mitigation credits could be developed.

The department reports to the House and Senate Transportation Committees no later than January 15, 1997.

Votes on Final Passage:

Senate	42	0
House	97	0

Effective: July 23, 1995

SB 5895

C 203 L 95

Permitting the exchange of state park lands within the Seashore Conservation Area.

By Senator Snyder.

Senate Committee on Ecology & Parks
House Committee on Natural Resources

Background: In 1967, the Legislature established the Washington State Seashore Conservation Area. The Seashore Conservation Area is under the jurisdiction of the State Parks and Recreation Commission and is managed for the purpose of preserving coastal beaches for public recreation.

The Seashore Conservation Area includes selected segments of coastline along the Pacific Ocean. It is defined as: (1) the area between the line of ordinary high tide and the line of extreme low tide, or (2) the area between the Seashore Conservation Line, where applicable, and the line of extreme low tide. The Seashore Conservation Line is established through surveys conducted by State Parks.

The commission has general authority to sell or exchange park lands that cannot be advantageously used for park purposes. Current law, however, generally prohibits the commission from selling, leasing, or otherwise disposing of lands within the Seashore Conservation Area.

Summary: The State Parks and Recreation Commission is authorized to exchange state park lands in the Seashore Conservation Area for lands of equal value. Only state

parks lands located east of the Seashore Conservation Line may be exchanged.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: May 1, 1995

SB 5898

PARTIAL VETO

C 261 L 95

Providing that research studies for alternatives to grass burning be conducted by Washington State University.

By Senators Rasmussen, West, Loveland, Newhouse, Bauer and Morton.

Senate Committee on Ecology & Parks
House Committee on Agriculture & Ecology

Background: Since 1977, part of the fee paid by grass growers for field burning permits has been allocated to support research on reducing air pollution from burning. The portion allocated is currently \$.50 per acre of land to be burned. The total amount of fees collected for research between 1977 and 1994 was \$326,550.

Before 1991, the Department of Ecology determined what research would be funded. Between 1979 to 1985, it paid \$118,000 to the University of Washington to develop a portable grass seed burning machine. Between 1989 and 1991, it paid \$41,000 to Washington State University (WSU) for continued work on the portable grass seed burning machine.

The 1991 Washington Clean Air Act established the Agricultural Burning Practices and Research Task Force, charged with identifying research needs relating to the adverse effects of the open burning of seed grasses. The Department of Ecology is charged with approving the task force recommendations.

Just prior to the establishment of the task force in 1991, the Department of Ecology shifted its funding from in-state research on the mobile field burner to a dethatching demonstration project conducted by an out-of-state private company, Phoenix Industries of Oregon. It paid the company \$70,800. In 1992, the new task force decided to continue funding the dethatching project through WSU.

Summary: It is mandated that any study authorized by the task force and approved by Department of Ecology must be conducted by Washington State University. WSU may not use more than 8 percent of research funds for administrative overhead. WSU is required to submit a brief report every two years to the appropriate standing committees of the Legislature assessing the potential of its research to result in practical and economical alternatives to grass seed burning. The reporting requirement is terminated once grass seed burning is prohibited.

Procedures are established so that city selection committee members can vote by mail for air pollution authority board members.

Votes on Final Passage:

Senate	47	0	
House	93	3	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

Partial Veto Summary: The emergency clause was vetoed.

VETO MESSAGE ON SB 5898

May 5, 1995

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, Senate Bill No. 5898 entitled:

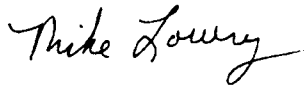
"AN ACT Relating to open burning of grasses grown for seed;"

The subject of this legislation is research for alternatives to grass seed burning. However, section 3 contains an emergency clause indicating this act is necessary "for the immediate preservation of the public peace, health or safety or support of state government. Preventing this bill from being subject to a referendum under Article II, section 1(b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For this reason, I am vetoing section 3 of Senate Bill No. 5898.

With the exception of section 3, Senate Bill No. 5898 is approved.

Respectfully submitted,



Mike Lowry
Governor

SSB 5905

C 385 L 95

Penalizing persistent prison misbehavior.

By Senate Committee on Law & Justice (originally sponsored by Senators Long, Hargrove, Roach, Smith, Winsley, Schow, Swecker, Haugen, Quigley, Hale, Strannigan, McCaslin, Finkbeiner, West, Bauer, Rasmussen and Oke).

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

Background: Prison inmates may earn early release for good conduct and participation in programs. Inmates who commit serious infractions as defined by rules adopted by the Department of Corrections may have their earned early release time reduced, or be denied the ability to earn early release. It has been suggested that inmates who lose all

potential earned early release time as a result of serious infractions should be subject to criminal penalties for subsequent serious infractions.

Summary: A prison inmate serving a sentence for an offense committed on or after August 1, 1995, commits the crime of persistent prison misbehavior if the inmate knowingly commits a serious infraction that is not a class A or B felony, after losing all potential earned early release time credit. A serious infraction is misconduct designated as such by Department of Corrections rules. Persistent prison misbehavior is a class C felony and is ranked at level V. Since all persons convicted of this offense have an offender score of at least one, the minimum standard range is 12+ -14 months. The sentence imposed for this crime must be served consecutive to any other sentence being served.

Votes on Final Passage:

Senate	47	0	
House	84	11	(House amended)
Senate	41	0	(Senate concurred)

Effective: July 23, 1995

SSB 5918

C-96 L 95

Revising provisions for a single system of accountability for the mental health service delivery system.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Sheldon, Hargrove, Quigley, Prentice, Rasmussen and Kohl).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: In 1994, legislation was enacted requiring the Department of Social and Health Services to establish a project streamlining accountability systems for mental health programs. The project is to be implemented in at least two regional support networks by July 1995 with full statewide implementation by July 1997.

Summary: The Department of Social and Health Services is required to proceed with the project to streamline accountability systems that affect the community mental health service delivery system.

The definition of community mental health service delivery system includes agencies that specifically provide services for persons with mental disorders and receive funding from various federal or state sources.

The department is required to make systematic efforts to include state, federal, and local funds into the single system of accountability.

Votes on Final Passage:

Senate	45	0	
House	97	0	

Effective: April 18, 1995

ESB 5925

C 4 L 95

Modifying the determination of unemployment insurance contribution rates.

By Senator Pelz.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Washington State employers pay unemployment insurance (UI) taxes on each employee in order to fund the payment of unemployment benefits. The current system of taxation was established by the Legislature in 1984, and provides for the adjustment of employer rates as follows:

Tax Schedules/Trust Fund Trigger: There are seven distinct tax schedules: AA, A, B, C, D, E, and F, with AA containing the lowest, and F the highest average tax rates. The schedule is determined by the level of monies in the UI trust fund as compared to the state's total wages (trust fund balance divided by total wages expressed as percentage) with the lowest tax schedule AA in effect when the fund balance ratio is at 3.9 percent or higher. The highest tax schedule, schedule F, is in effect when the fund balance ratio is less than 1.4 percent.

Interval of Fund Balance Ratio	Effective Tax Schedule
3.9% and above	AA
3.4% to 3.89%	A
2.9% to 3.39%	B
2.4% to 2.89%	C
1.9% to 2.39%	D
1.4% to 1.89%	E
Less than 1.4%	F

On June 30 of each year the Employment Security Department is statutorily required to determine which of the seven tax rates schedules will be in effect for the following year. Based on this process, the unemployment insurance tax schedule is set to transition from the existing AA to A schedule on January 1, 1995.

Rate Class/Experience Rating: Within each tax schedule there are 20 rate classes ranging from .36 percent to 5.4 percent of taxable payroll (\$19.9 K, 1994). Employers are placed in each of the 20 rate classes based on their history of reducing their work force. This is termed "experience rating." Employers with a high experience rating pay a higher UI tax rate.

Summary: The method of determining the state's unemployment insurance tax schedule is modified as follows:

AA Schedule: The tax schedule AA is maintained in effect for calendar year 1995.

Trigger Mechanism: The UI tax rate trigger mechanism is modified permanently in 1996 as follows:

**Interval of Fund
Balance Ratio**

2.90% and above
2.50% to 2.89
2.10% to 2.49%
1.70% to 2.09%
1.30% to 1.69%
1.00% to 1.29%
Less than 1.00%

**Effective
Tax Schedule**

AA
A
B
C
D
E
F

Interim Study: The Employment Security Department is directed to conduct a study of the UI trust fund, outlining the advantages and disadvantages of modifying the existing funding mechanism.

Votes on Final Passage:

Senate 44 5
House 68 29

Effective: March 16, 1995 (Section 1)
January 1, 1998 (Section 2)

SB 5931

C 344 L 95

Providing parity among financial institutions.

By Senators Prentice and Hale.

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

Background: All financial institutions must be chartered by either the state or the federal government. State-chartered and federally-chartered institutions are subject to different regulations.

Summary: When adopting rules governing the lending limits of state-chartered financial institutions, the Director of the Department of Financial Institutions is guided by rules governing lending limits of federally-chartered financial institutions.

The requirement that banks and trust companies publish call reports in newspapers is repealed. However, the director must provide a copy of a call report, free of charge, to anyone who requests one.

State-chartered banks are authorized to conduct the same activities that national banks were authorized to conduct before August 31, 1994. Any activities authorized by national banks after August 31, 1994 may be conducted by state-chartered banks only with the director's approval and only after the director has made affirmative findings that the activities would: (1) serve the convenience and advantage of depositors, borrowers, or the public; and (2) maintain fair competition and parity between state-chartered and national banks.

Votes on Final Passage:

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

Effective: July 23, 1995

ESSB 5943

C 386 L 95

Financing convention and trade centers.

By Senate Committee on Ways & Means (originally sponsored by Senators Rinehart, Prince, Sheldon, Deccio and Kohl).

Senate Committee on Ways & Means
House Committee on Trade & Economic Development

Background: The Washington State Convention and Trade Center (WSCTC) is a public nonprofit corporation created by the Washington State Legislature in 1982. Construction of the WSCTC facility was financed by general obligation bonds. Total bonds authorized for the WSCTC are \$160,765,000. Construction was completed in 1988, when WSCTC held its first event. The mission of WSCTC is to operate a nationally competitive convention and trade facility in the city of Seattle. WSCTC is currently operating at capacity and ranks near the bottom when compared to other convention centers in terms of prime exhibition space.

The state imposes a sales tax on lodging in King County to finance the WSCTC. The tax is imposed in Seattle at a rate of 7 percent and in the remainder of King County at a rate of 2.8 percent. The rate is to be reduced to 6 percent in Seattle and to 2.4 percent in the remainder of King county on October 1 following the first fiscal year after fiscal year 1998 that revenues for that fiscal year exceed debt service by \$2 million. This tax only applies to premises with 60 or more lodging units.

The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms.

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.

Summary: State Convention and Trade Center. Beginning January 1, 2000, the city of Seattle may levy an excise tax of 2 percent on the furnishing of lodging on premises with 60 or more lodging units. The tax is credited against the state sales tax. The moneys collected

from the tax are deposited into the state convention and trade center account. Funds must be used to expand the State Convention and Trade Center. The state sales tax on construction of the facility is also deposited into the convention and trade center account.

The reduction in the state lodging tax rate in King County is delayed until all debt is retired.

Convention Facilities. Counties with a population between 500,000 and one million, and cities within these counties, may impose a 5 percent hotel/motel tax. At least 2 percent is to be used for visitor and convention promotion and development. At least 3 percent is to be used for acquisition, construction, expansion, marketing, management, and financing of convention facilities and facilities to support major tourism destination attractions that serve one million or more visitors a year. Based on current population, this applies to Pierce County.

The cities of Bellevue and Yakima may continue to levy the basic 2 percent hotel/motel tax through 2012, as long as bonds issued at any time are outstanding.

Yakima city and county may impose the additional 3 percent while imposing the basic 2 percent.

The Kingdome may be operated or managed by a private entity.

Votes on Final Passage:

Senate	38	11	
House	54	42	(House amended)
Senate	26	17	(Senate concurred)

Effective: May 16, 1995

SB 5956

C 262 L 95

Collecting unpaid court obligations.

By Senators Rasmussen, Strannigan, Rinehart, Hargrove, Smith, Schow, Prentice, Hochstatter, Wojahn, Haugen, Sheldon, Gaspard, Deccio, Spanel, Morton, Pelz, Franklin, Bauer, Kohl, Sutherland, Palmer, McDonald, Wood, A. Anderson, Owen, McAuliffe, Fraser, Long, West, Oke and Winsley.

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

Background: Courts impose various fines, fees and penalties on defendants. When defendants fail to fulfill the terms of a court order, superior court clerks may use county collection services or contract with collection agencies to collect the moneys owed. The cost of collecting the unpaid fines, fees and penalties are paid by the defendants. If a criminal offender is under the jurisdiction of the Department of Corrections, counties

SSB 5957

only may collect the moneys with the approval of the department.

Concern has been expressed that the statute does not explicitly authorize a superior court judge to impose the cost of collecting unpaid court obligations.

Summary: The statute authorizing counties to collect unpaid court obligations is clarified.

A superior court judge is authorized, at the time of sentencing or within ten years, to assess as court costs moneys paid to collect unpaid court-ordered legal financial obligations. Superior court clerks are encouraged to initiate collection action against criminal offenders.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

SSB 5957

C 32 L 95

Amending plats.

By Senate Committee on Government Operations (originally sponsored by Senator Cantu).

Senate Committee on Government Operations
House Committee on Government Operations

Background: The official record of a subdivision of real property is a plat, filed with county real property records. The alteration of an existing plat requires an application signed by a majority of the property owners in the subdivision and approval by the legislative authority of the city or county in which the subdivision is located. If the alteration will violate a restrictive covenant filed at the time of approval of the subdivision, the application for alteration of the plat must be signed by all of the property owners in the subdivision. In all events, notice of the alteration must be given to all property owners and either a public hearing scheduled or an opportunity to request a hearing afforded. If the legislative authority approves an alteration, a revised plat is filed with the county real property records.

Certain alterations may be considered to have such little substantive impact on the rights of the property owners in the subdivision that they should be exempt from the approval requirements.

Summary: A city, town or county may grant an easement for ingress and egress or utilities over public property that is held as open space pursuant to a subdivision or plat without compliance with the alteration statute if: (1) the open space is already used as a utility right of way or corridor; (2) other access is not feasible; (3) the granting of the easement does not impair public access or authorize construction of physical barriers of any type; and (4) a

public hearing is held with notice to the property owners in the affected subdivision.

A donor of a public park of less than two acres by way of dedication in a plat submitted for approval may designate that the park be named in honor of a deceased individual of good character.

Votes on Final Passage:

Senate	49	0	
House	97	0	

Effective: July 23, 1995

ESB 5962

C 225 L 95

Changing dairy products regulations.

By Senators Rasmussen and Newhouse.

Senate Committee on Agriculture & Agricultural Trade & Development
House Committee on Agriculture & Ecology

Background: The Department of Agriculture inspects dairy farms at least once every six months to determine compliance with the pasteurized milk ordinance. The items inspected range from how milk facilities are constructed and maintained to allowable bacteria counts in milk. If there are repeat violations, the milk is required to be degraded from class A milk to class C milk. Class C milk may be used in manufactured milk products such as ice cream, powdered milk or cheese.

Concern exists as to whether milk should be required to be degraded if the degrading was the result of nonhealth related violations of the pasteurized milk ordinance.

A provision of the pasteurized milk ordinance in effect since 1949 was intended to prohibit selling milk out of a milk can to the consumer. Instead, milk is to be sold to the consumer in individual containers or from approved dispensing devices. Concern exists that dispensing milk for coffee and lattes from small containers would be in violation of current law.

Summary: The Dairy Inspection Advisory Committee is directed to develop a proposal to impose a civil penalty that would be in lieu of a degrading. In developing a proposal, the federal Food and Drug Administration and neighboring states must be consulted. A written report of the committee's conclusions and recommendations are to be provided to the Legislature by December 15, 1995.

Milk that is consumed on the premises can be served from a container if the serving size does not exceed one-half pint.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

SSB 5977

C 398 L 95

Revising administration of forensic investigations.

By Senate Committee on Government Operations (originally sponsored by Senators Loveland, Haugen, Long, Smith and Winsley).

Senate Committee on Government Operations
Senate Committee on Ways & Means
House Committee on Law & Justice
House Committee on Appropriations

Background: The Washington State Crime Lab is part of the Washington State Patrol. Its purpose is to analyze physical evidence relating to any crime and to train local law enforcement personnel. The Washington State Advisory Council on Criminal Justice Services helps the crime lab use its resources efficiently.

The Washington State Toxicology Laboratory is established at the University of Washington Medical School under the direction of the State Toxicologist. It performs the toxicologic procedures requested by the coroners, medical examiners and prosecuting attorneys. It is funded from class H liquor license fees in the amount of \$150,000 or 1.75 percent of these fees, whichever is greater.

The Washington State Death Investigations Council has several functions incidental to fostering improved death investigations as part of the state's criminal justice system. One of these functions is to preserve and enhance the Toxicology Laboratory. Another function is to fund the state's death investigation system.

Summary: The Death Investigations Council is renamed the Forensic Investigations Council. It replaces the Advisory Council on Criminal Justice Services as the assisting entity of the Washington State Patrol crime lab. The crime lab is made its number one priority. It is given the mandate to participate and to approve the crime lab budget and the Toxicology Laboratory budget before they are submitted to the Office of Financial Management.

The membership of the council is increased from nine to 10. Two current members are removed and three new members are added. They are nominated from candidates offered by their various interest groups.

Up to 5 percent of the motor vehicle excise tax is appropriated for the enhancement of the State Patrol crime lab. This appropriation reduces the total motor vehicle excise tax by 5 percent.

The 5 percent that may be appropriated for the crime laboratory from distribution to the cities is excluded in all pertinent statutes.

The \$125 fee assessed against persons convicted of driving under the influence (DUI), which fee was scheduled to expire July 1, 1995, is made permanent, and the sunset on this fee is repealed. Of the portion of the fee that goes to the State Treasurer for distribution, the distribution

split is changed, and the provisions for which the funds are used are changed. For the 1995-97 fiscal biennium, 50 percent goes to support the State Toxicology Lab and 50 percent goes to the State Patrol for DUI investigation and prevention. At the end of the biennium, the split changes to 15 and 85 percent, respectively.

The sum of \$300,000 from class H liquor license revenues is distributed for the support of the State Toxicology Lab.

The State Toxicology Lab operates under the authority of the Forensic Investigations Council, rather than under the University of Washington (UW). The council, rather than the president of the UW, appoints the State Toxicologist.

Votes on Final Passage:

Senate	44	0	
House	94	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: May 16, 1995 (Section 17)
July 23, 1995

SB 5990

C 387 L 95

Requiring public notice regarding excess compensation.

By Senators Long, Bauer, Cantu, Rinehart, Newhouse, Winsley, Wood, Deccio, Johnson, Finkbeiner, Loveland and Hochstatter.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: "Earnable compensation" for purposes of determining a state retirement system member's pension is generally defined as salaries and wages payable for services rendered to the employer. Certain leave cash outs can be included in the earnable compensation of members of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS).

"Excess compensation" is earnable compensation used in the calculation of the retirement benefit except regular salary, overtime and annual leave cash outs under 240 hours. Excess compensation includes, among other things, cash outs of annual leave in excess of 240 hours, sick leave cash outs, payments for or in lieu of personal expenses and termination or severance payments.

SSB 5118, passed by the 1995 Legislature, expands the definition of excess compensation to include payments in lieu of annual leave cash outs or transportation allowances, and payments that exceed twice the regular rate of pay.

Employers are responsible for paying the increased pension costs that arise from including excess compensation in earnable compensation.

Summary: The governing body of a PERS or TRS employer must provide public notice in compliance with

SSB 5992

the Open Public Meetings Act before it enters into a contract or collective bargaining agreement that provides payments that result in the employer being billed for increased pension costs from excess compensation. Those items requiring public notification include a cash out of unused annual leave in excess of 240 hours, including any payment in lieu of an accrual of annual leave or any payment added to regular salary concurrent with a reduction of annual leave; a cash out of any other form of leave; a payment for any personal expense or transportation allowance; the portion of any payment that exceeds twice the regular rate of pay or any termination or severance payment. At the public meeting, full disclosure must be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billing that results.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SSB 5992

C 130 L 95

Clarifying the role of the work force training and education coordinating board.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Bauer, Pelz, Wood, Prince, Kohl, Deccio, Heavey and Rasmussen).

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: In 1991, the Legislature created the Workforce Training and Education Coordinating Board and charged it with making the state's workforce education and training system better coordinated, more efficient, more responsive to the needs of business and workers, and more accountable for its performance. The coordinating board's authorizing statute directs it to develop and maintain a comprehensive plan for workforce training, require a minimum of core data and establish minimum standards for program evaluation by the operating agencies of the state training system, and perform outcome-based, net-impact, and cost-benefit evaluations of the system as a whole.

The board's comprehensive plan was released last fall. The board's authorizing statute does not require legislative action approving its comprehensive plan and sets no deadlines for its evaluation functions.

In 1992, Congress amended the Job Training Partnership Act (JTPA) to authorize each state to have a Human Resource Investment Council (HRIC) to carry out coordi-

nation functions, similar to the requirements of the board. Governor Gardner responded with a designation of the board as the HRIC, even though its composition is slightly different from that outlined in the JTPA amendment. There is no statutory requirement that the board act as the HRIC.

Summary: The Workforce Training and Education Coordinating Board is required to report annually to the Legislature regarding progress towards implementing the state comprehensive plan for workforce training and education. The board's comprehensive plan must be updated every two years and submitted to the Legislature for approval. The operating agencies represented on the board develop operating plans for their workforce development efforts that comply with the comprehensive plan and report yearly to the board on their progress under the plan.

The board performs the functions of the Human Resource Investment Council and advises the Governor and Legislature on integrating federal and state workforce development efforts. The Legislature intends to seek broad input on the allocation of any federal block granted funds.

Deadlines are established for: (1) notifying operating agencies on common data and minimum evaluation standards required of them; (2) programmatic and systemwide evaluations; (3) an assessment of supply and demand for training services accompanied by recommendations on how to bridge any gap between the supply and the demand; and (4) identifying barriers and making recommendations regarding the seamless delivery of workforce development services.

Votes on Final Passage:

Senate	42	0	
House	96	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 23, 1995

SSB 5997

C 61 L 95

Regulating fireworks.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Palmer, Bauer, Owen and Newhouse).

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Certain broad aspects of fireworks regulation are determined by the state, while many particular regulations about the sale and use of fireworks are determined by local jurisdictions.

Local governments may be more restrictive than the state with respect to the sale and use of fireworks. Local governments can prohibit the use of fireworks, and/or place

limitations and conditions on various aspects of firework activities. Local governments have the authority to grant and deny permits to sell and use fireworks. Except as to the types of fireworks that may be sold, there are no provisions relating to the effective dates of local fireworks regulations. Any local ordinances restricting the types of fireworks sold can only take effect one year after their adoption.

For most fireworks sales and display activities, persons must obtain a license from the state and a permit from the local government where the fireworks are to be displayed or sold. Additional license fees authorized by the Legislature in 1991 are deposited into the fire services trust fund, which is used for various state activities relating to fireworks.

Summary: Changes and new language are added to various sections of the code pertaining to fireworks.

Definitions. The definitions of "fireworks," "special fireworks," and "common fireworks" are amended to be consistent with federal law and U.N. protocol. The Department of Community, Trade, and Economic Development is required to classify new firework items already classified by the federal government, unless the department finds, on reasonable grounds, that the item should not be classified.

It is clarified that persons who transport fireworks for personal use are not considered "importers" in need of licensing. It is clarified that persons who assemble sets or packages of common fireworks are not considered "manufacturers."

State Standards. The department is directed to prescribe uniform, statewide standards for retail fireworks stands. All cities and counties that allow retail fireworks sales must comply with these standards.

Fireworks use and sale times are expanded to allow fireworks to be discharged and sold until midnight on July 4. Fireworks may be used and sold from 6:00 p.m. until 1:00 a.m. on December 31 (January 1). Local governments have the authority to restrict use and sales on New Year's Eve 1995, if they pass such an ordinance within 60 days of passage of this act.

Seventy-five percent of the additional license fees receipts placed into the fire services trust fund must fund a public education campaign developed by the department and the licensed fireworks industry emphasizing safe and responsible use of legal fireworks. The remaining receipts must be used to fund statewide enforcement efforts against the sale and use of illegal fireworks. Proceeds from sales of seized fireworks are deposited into the fire services trust fund after administrative costs associated with the seizure and storage are deducted by the seizing entity.

The department's mandatory revocation of permits for violating the state law, creating a fire nuisance, failure to file necessary reports, or noncompliance is changed to a discretionary revocation.

Retail licensees must purchase all fireworks from wholesalers possessing a valid Washington wholesale license.

The department may not require any additional reports from licensees. Any reports produced by licensees are not subject to public disclosure.

Several other changes are made to certain licensing and permitting requirements.

Local Government Restrictions. Any local rules that are more restrictive than state law have an effective date of one year after adoption. The governing body of a city or county must grant a permit to applicants that meet the requirements outlined in the Revised Code of Washington and comply with local ordinances. Local governments cannot deny a public display permit except for nonconformity with state or local law.

Local fire officials may not charge for permits to use firecrackers, salutes, and chasers in public display, for special purposes, on specific dates.

Local public agencies may not charge a permit fee of more than \$100 to cover all needed permits and licenses from application through issuance and inspection.

Various technical and other changes are made.

Votes on Final Passage:

Senate	38	8
House	92	4

Effective: April 17, 1995

ESB 5998

C 263 L 95

Authorizing local government waivers from specific requirements of on-site sewage system rules adopted by the board of health.

By Senators Sheldon, Owen, Oke, Fraser, Hochstatter and Palmer.

Senate Committee on Ecology & Parks
House Committee on Agriculture & Ecology

Background: The State Board of Health is authorized to adopt rules and standards governing the design, construction, and operation of sewage systems in order to protect public health. By statute, local boards of health are required to enforce rules adopted by the State Board of Health.

Regulations adopted by the State Board of Health authorize local health officers to grant waivers from specific requirements that apply to on-site septic systems. It is suggested that the waiver provisions contained in the regulations should be placed in statute.

Summary: Local health officers are authorized to grant waivers from specific requirements of the State Board of Health on-site septic systems rules. On-site systems with

SSB 6002

flows under 3500 gallons per day are eligible for such waivers.

The waivers must be evaluated by the local health officer on a site-by-site basis and must be consistent with the intent and standards in the State Board of Health rules.

Local health departments are required to submit quarterly reports to the State Department of Health (DOH) regarding any waivers approved or denied.

Based on review of the quarterly reports, if DOH finds that the waivers are not consistent with the standards in the State Board of Health rules, it must provide technical assistance to the local health officer to correct the inconsistency. If upon further review of the quarterly reports the inconsistency is not corrected, DOH may suspend the authority of the local health officer to grant waivers.

Votes on Final Passage:

Senate	49	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 23, 1995

SSB 6002

C 36 L 95

Changing community and technical college tuition refund and fee cancellation provisions.

By Senate Committee on Higher Education (originally sponsored by Senators Bauer, Wood, Rinehart and Kohl; by request of State Board for Community and Technical Colleges).

Senate Committee on Higher Education
House Committee on Higher Education

Background: Most financial aid students, like other students, complete their quarterly classes. However, there are times when students are unable to complete classes for a variety of reasons, and are forced to withdraw before the end of the quarter. The college then determines if a tuition refund is due back to the student, or to the financial aid program if the student is receiving assistance.

In November 1994, the federal government imposed new regulations governing refunds to financial aid students who withdraw before the completion of the quarter. The new regulations require colleges to refund according to the standards in state law or the college's accrediting agency. The Northwest Association of Schools and Colleges, the accrediting agency for the community and technical colleges, does not have a refund policy.

In Washington, each college has policies governing refunds. However, the state Attorney General's office has determined that the current state law does not have a standard for the community and technical colleges, and thus does not meet the refund requirement under federal regulations.

Without legislative action, the colleges would have to provide refunds following the federal "fair and equitable refund policy."

Summary: The governing boards of the community and technical colleges must refund or cancel up to 100 percent, but not less than 80 percent, of the tuition and fees if withdrawal is before the sixth day of instruction for which the tuition and fees are paid. For withdrawal after the sixth day, providing the withdrawal occurs within 20 calendar days of the start of instruction, the refund must be up to 50 percent, but no less than 40 percent. The governing board may adopt a refund policy that meets the minimum requirements of the federal law to maintain eligibility for federal funding of programs.

The governing boards are required to adopt rules for the refund of tuition and fees, and may extend the refund period for students who withdraw for medical reasons or who are called into the military.

Votes on Final Passage:

Senate	46	0
House	96	1

Effective: April 13, 1995

SB 6004

C 309 L 95

Authorizing joint agreements between cities and counties for criminal justice purposes.

By Senators Sellar and Oke.

Senate Committee on Government Operations
House Committee on Government Operations

Background: The legislative authority of any county may impose a one-tenth of 1 percent sales and use tax (subject to referendum) to be used exclusively for criminal justice purposes. Criminal justice purposes is defined, in part, as activities that substantially assist the criminal justice system. The moneys received from this tax may not be used to replace or supplant existing funding. When distributing these revenues, the State Treasurer distributes 10 percent to the county in which the tax was collected, and the remainder is distributed to the county and the cities within the county ratably based on population.

A question has arisen as to whether a county and the cities within the county may jointly expend these funds, pursuant to an interlocal agreement, to operate a juvenile detention facility.

Summary: Cities and counties, or any combination thereof, are expressly authorized for criminal justice purposes to participate in interlocal agreements for the expenditure of funds received from the criminal justice sales and use tax. Criminal justice purposes include, but are not limited to, the construction, improvement, and

expansion of jails, court facilities, and juvenile justice facilities.

Votes on Final Passage:

Senate	47	1	
House	96	1	(House amended)
Senate			(Senate refused to concur)
House	93	0	(House receded)

Effective: July 23, 1995

SB 6010

PARTIAL VETO

C 13 L 95 E1

Affecting the funding formula for the learning assistance program.

By Senators McAuliffe and Rinehart.

Senate Committee on Education

Background: The Learning Assistance Program (LAP) is a state-funded remediation program for students in grades K-9 who need extra help in school to acquire basic skills. The state distributes funding for the program to school districts based on the percentage of students scoring in the bottom 25 percent on the fourth and eighth grade tests.

In 1990-91, 22.4 percent of the 4th grade students scored in the lowest quartile on a nationally normed test. A new test was implemented in 1991-92. The number of students scoring in the lowest quartile increased to 25.2 percent and is estimated to grow to 29 percent by 1994-95. Questions have been raised about the validity of the test due to the fact that the number of students scoring in the bottom quartile increased at the same time the new test was implemented. Due to concerns about the validity of the test, the funding formula was revised in the 1993-95 legislative budget to discount questionable test results.

In the budget, the Superintendent of Public Instruction was required to make recommendations to the Legislature on a new funding formula consistent with the new assessment system developed by the Commission on Student Learning. This study was due by the 1995-97 biennium, but the superintendent could request a delay if the assessment system was not developed. Since the assessment system was not developed, the superintendent did not make recommendations.

A study of LAP by the Legislative Budget Committee suggested that an option for changing funding for LAP might include changing the formula by adding a factor for poverty or other demographic measures associated with low educational achievement.

Summary: Beginning with the 1995-96 school year, the distribution formula for funds is based upon both an assessment of students and a poverty factor.

The Superintendent of Public Instruction must develop recommendations for a new allocation formula for the pro-

gram not later than the 1997-98 school year. The recommendations are based upon the initial implementation of the new assessment system for reading, writing, communication, and mathematics.

Votes on Final Passage:

First Special Session

Senate	35	10
House	82	11

Effective: August 22, 1995

Partial Veto Summary: The emergency clause was vetoed.

VETO MESSAGE ON SB 6010

June 14, 1995

*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. 6010 entitled:

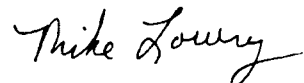
"AN ACT Relating to the learning assistance program;"

Senate Bill No. 6010 changes the state funding formula for the learning assistance program beginning with the 1995-96 school year. Section 2 contains an emergency clause indicating this act is necessary "for the immediate preservation of the public peace, health, or safety, or support of the state government." However, the new formula starts with the beginning of the 1995-96 school year, which is not until September 1, 1995. Preventing this bill from being subject to a referendum under Article II, section 1(b) of the state Constitution unnecessarily denies the people of this state their power, at their own option, to approve or reject this bill at the polls.

For this reason, I am vetoing section 2 of Senate Bill No. 6010.

With the exception of section 2, Senate Bill No. 6010 is approved.

Respectfully submitted,



*Mike Lowry
Governor*

SB 6011

C 126 L 95

Changing provisions relating to the purchase of liability insurance by school districts.

By Senator McAuliffe.

Senate Committee on Education
House Committee on Education

Background: After October 1, 1995, school districts will be required to purchase liability insurance through contracts with the Health Care Authority. The Health Care Authority is unable to meet this need.

SSB 6026

Summary: School districts are not required to purchase liability insurance through the Health Care Authority.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: July 23, 1995

SSB 6026

C 97 L 95

Using "Washington state grown" for agricultural commodities.

By Senate Committee on Agriculture & Agricultural Trade & Development (originally sponsored by Senators Rasmussen, Loveland, A. Anderson, Morton, Bauer, Snyder, Newhouse, Winsley and Kohl).

Senate Committee on Agriculture & Agricultural Trade & Development

House Committee on Agriculture & Ecology

Background: Some states, including California, have proposed laws to provide for the voluntary advertising and labeling of agricultural products as having been grown in that state.

Summary: Agricultural commodities may be labeled, advertised, marked or sold with the words "Washington State Grown" or similar language if the product is grown or raised in Washington State.

Agricultural commodities that are not grown or raised in this state cannot be advertised, labeled or sold as "Washington State Grown," in a way to imply they are grown in Washington State. A violation of this section is an unfair and deceptive act in trade and commerce, and an unfair method of competition for the purposes of applying the Consumer Protection Act.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: July 23, 1995

SSB 6028

C 127 L 95

Concerning harassment of a child by a person over age eighteen.

By Senate Committee on Law & Justice (originally sponsored by Senators Schow and Roach).

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

Background: The objective of civil anti-harassment protection orders is to prevent further unwanted contact between the victim and the perpetrator. The court will

issue the protection order if it finds by a preponderance of the evidence that unlawful harassment exists. The court has broad discretion in fashioning the protection order including restraining the respondent from making any attempts to contact the petitioner and requiring the respondent to stay a certain distance from petitioner's home or workplace. The order is in effect for one year unless the court enters a permanent anti-harassment protection order or sets the duration of the order for a fixed time exceeding one year. Any respondent who willfully violates a civil anti-harassment protection order is guilty of a gross misdemeanor.

Summary: A parent or guardian of a child under age 18 may petition a court for a protection order in cases of unlawful harassment. The parent or guardian may seek a protection order restraining a person over age 18 from contact with the child of the parent or guardian. The parent or guardian must show that contact with the person to be restrained in the protection order is detrimental to the welfare of the child.

The definition of unlawful harassment is a knowing and willful course of conduct that is directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to the person and which serves no legitimate or lawful purpose. The course of conduct is that which causes a reasonable parent to fear for the well-being of his or her child when the conduct is by a person over the age of 18.

Votes on Final Passage:

Senate	42	3
House	73	24

Effective: July 23, 1995

ESSB 6029

C 5 L 95

Revising exemptions from overtime compensation requirements.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senator Pelz).

Senate Committee on Labor, Commerce & Trade

Background: Under the state Minimum Wage Act, an employer must generally pay its employees no less than one and one-half times their regular rate of pay for any work in excess of 40 hours in one week. Those employed in "a bona fide executive, administrative, or professional capacity" are explicitly exempt from this provision. The Department of Labor and Industry rules defining these terms require that to qualify for the exemption the employee, among other things, must be paid on a salary basis.

It has been the practice of some employers, pursuant to a collective bargaining agreement and otherwise, to pay

certain employees an hourly amount, in addition to their salary, for each hour worked over 40 in a week. These employees were considered exempt from the Minimum Wage Act, and the practice of paying them this additional amount was thought not to affect this exemption.

However, a January, 1995 Washington State Court of Appeals decision held that the payment of additional wages on an hourly basis for hours worked in excess of 40 per week, regardless of whether the employee was otherwise paid a "salary," made that employee an hourly employee subject to the overtime provisions of the Minimum Wage Act. The employer was thus liable for back pay.

Summary: The payment of compensation or provision of compensatory time off in addition to a salary is not to be a factor in determining whether a person is exempt from the state overtime pay requirements.

The act is intended to clarify the original intent of the overtime pay exemptions, and applies to all administrative and judicial actions commenced on or after February 1, 1995, and pending on the effective date of the act, and to all these actions commenced on or after the effective date of the act.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: March 30, 1995

ESB 6037

C 388 L 95

Creating the Washington Independent Regulatory Affairs Commission.

By Senators Sheldon, Hale, Rinehart, Haugen, Drew, Oke, Kohl, Fairley, Franklin, Snyder, Quigley, Bauer, McAuliffe, Fraser, Sutherland and Gaspard.

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

Background: Some states have established independent entities to provide oversight of their regulatory systems and to review existing and proposed administrative rules. It is suggested that such an entity would be valuable in Washington.

Summary: The Government Operations Committees of the Legislature are to conduct a joint interim study on the advisability of creating an independent commission to provide oversight of the state's regulatory system.

Votes on Final Passage:

Senate	37	11
House	91	0 (House amended)
Senate	43	0 (Senate concurred)

Effective: July 23, 1995

ESB 6045

C 264 L 95

Allowing retired administrators to serve as replacement administrators without a reduction of pension benefits.

By Senators Bauer, Hochstatter, Gaspard, McAuliffe and Winsley.

Senate Committee on Education
House Committee on Education

Background: Under current law, retired teachers and administrators under Teachers' Retirement System Plan I may serve as substitute teachers for up to 75 days a school year without affecting their retirement benefits. If there is a shortage of substitute teachers, retired teachers or administrators can work an additional 15 days as substitute teachers.

Summary: A retired teacher or administrator under Plan I may serve as a substitute administrator for an additional 15 days without a reduction in retirement benefits, if the school district adopts a resolution declaring it cannot find a replacement administrator. A retired teacher or administrator is limited to a total of 15 additional days, whether serving as a substitute teacher or as a substitute administrator.

Votes on Final Passage:

Senate	48	0
House	91	6 (House amended)
Senate	46	0 (Senate concurred)

Effective: May 5, 1995

2ESSB 6049

C 14 L 95 E1

Financing public stadiums used by sports teams.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Finkbeiner, Snyder and Pelz).

Senate Committee on Ways & Means
House Committee on Trade & Economic Development

Background: The state sales tax is imposed on each retail sale 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 has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms.

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.

Cities and counties may impose a tax of up to 5 percent on admissions to events except elementary and secondary

school events. The county tax may not apply within cities that impose the tax.

As amended by SSB 5127 in the 1995 Regular Session (C 396 L 95), a public facilities district may be created in any county by the county legislative authority and must be coextensive with the county. A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate sports facilities, entertainment facilities, and convention facilities.

A public facilities district may impose an excise tax of up to 2 percent on the sale or charge for furnishing lodging by a hotel, motel, trailer camp, or tourist court with 40 or more lodging units if, after imposing the tax, the rate of state and local excise taxes on such sales or charges does not exceed 11.5 percent in any jurisdiction within its boundaries. Currently, a district created in King County would be precluded from imposing the tax. The tax must be approved by the voters if not imposed by December 31, 1995.

With voter approval, a public facilities district may impose a 0.1 percent sales and use tax and both single-year excess property tax levies and multiple-year excess levies to retire general obligation bonds issued for capital purposes.

No taxes may be imposed unless a majority of the voters of the district validates its creation. A single ballot proposition may authorize both the creation of the district and either the sales and use tax or the lodging tax.

A public facilities district may issue general obligation bonds up to three-eighths of 1 percent of the value of the taxable property in the district. In addition, a public facilities district may issue revenue bonds.

Summary: In a charter county where the largest city has less than 40 percent of the county population, appointments to the board of directors of a public facilities district are made by the county executive, with confirmation by the county legislative authority.

A public facilities district may contract with a public or private entity for management or operation of a public facility.

A public facilities district may use the state's alternative public works contracting procedures for construction of a public facility.

A public facilities district may issue general obligation bonds up to one-half of 1 percent of the value of the taxable property in the district.

No taxes may be imposed by a public facilities district unless approved by a majority of the voters of the district. A single ballot proposition may authorize both the sales and use tax and the lodging tax.

A sales and use tax deferral program is established for the construction of a baseball stadium with a retractable roof or canopy and natural turf. Taxes are deferred for five years from the date the facility is operationally complete and are repaid over the following ten years.

A county with a population of one million or more may impose a sales and use tax of 0.1 percent by resolution adopted by December 31, 1995, following approval by a majority of the voters in the county.

The tax revenue must be used to finance a baseball stadium with a retractable roof or canopy and natural turf. Tax revenue in excess of the amount needed for bond payments on the baseball stadium must be used for early retirement of the bonds or to pay costs to repair, remodel, or reequip a multipurpose stadium that seats in excess of 45,000 people.

Before the tax can be collected, the county executive must certify that: (1) A professional baseball team will occupy the stadium for a period equal to or greater than the terms of the bonds; (2) the baseball team will contribute \$45 million toward the cost of stadium construction, with interest paid on amounts deferred after the bonds are issued; and (3) the baseball team will share a portion of the profits from its operations, for a period not to exceed the term of the bonds, to retire the initial bonds on stadium construction. If the bonds are retired early, then the shared profits are paid to the public facilities district.

The admissions tax on events in the new baseball stadium may only be imposed by the county which must provide the revenue to the public facilities district.

The transfer of an existing facility to or the management of an existing facility by a public facilities district does accelerate repayment of existing bonds on the facility.

Votes on Final Passage:

Senate	31	18	
House	40	56	(House amended; failed)
House	50	40	(House reconsidered)

First Special Session

Senate	28	16	
House	57	34	(House amended)
Senate	31	14	(Senate concurred)

Effective: June 14, 1995 (Sections 10 and 12)
July 1, 1995 (Sections 1-9)

SSB 6058

C 15 L 95 E1

Modifying local public health governance and financing.

By Senate Committee on Ways & Means (originally sponsored by Senator Loveland).

Senate Committee on Ways & Means

Background: Prior to July 1, 1995, 8.83 percent of the motor vehicle excise tax (MVET) is distributed to cities and towns, based on their relative percentage of the state's incorporated population. These funds are to be used only for police and fire protection and for public health purposes. Local health departments could be cities, towns, counties, or groups of counties. The Washington Health

Services Act of 1993 amends the distribution of MVET to local governments by reducing the share distributed to cities and towns to 5.88 percent and limiting the use of these funds to providing police and fire protection. The remaining 2.95 percent of the MVET previously provided to cities and towns is distributed to counties based on their relative percentage of total state population and is earmarked for public health purposes. Counties, or groups of counties, are designated as local health departments.

The change in the MVET distribution formula required in the Washington Health Services Act results in a redistribution of funds across counties. Prior to July 1, 1995, the 2.95 percent of MVET which will be shifted to counties is distributed based on incorporated population, while after July 1, 1995, this portion of the MVET will be distributed on the basis of total state population. This results in a shift of MVET funds away from counties with a greater share of their population in incorporated areas and towards counties with a greater share of their population in unincorporated areas.

Additionally, in many counties the share of public health funding provided by cities has not been equal to the amount of MVET funding cities will lose as of July 1, 1995. For some cities, the combined loss of MVET funds and the loss of responsibility for any further public health financing is a net gain, while for other cities it is a net loss. Likewise, some county health departments will lose more in city public health financing than they will gain in MVET and vice versa.

The Washington Health Services Act also expanded state support of local public health through appropriations from the health services account and the public health services account.

SSB 5253, passed by the Legislature, contains provisions affecting local public health governance which take effect January 1, 1996 only if one of two conditions is met: \$2.25 million is appropriated either in the 1995 omnibus appropriations act or as a result of passage of this measure to implement the specified governance changes. If neither of these conditions is met, the governance changes in SSB 5253 do not take effect until January 1, 1998.

Summary: The county public health account is created and includes the following funds: the 2.95 percent of the MVET that would otherwise be distributed to counties in order to provide for public health funds, and appropriations from the health services account and the public health services account. Distributions from this county public health account to local public health departments equal the 1995 level of city contributions for public health services within the county or health district. Any funds in the account above this level are distributed to public health departments based on their relative share of the state's incorporated population for public health purposes.

Votes on Final Passage:

First Special Session

Senate	39	6
House	95	0

Effective: January 1, 1996

SB 6073

C 16 L 95 E1

Amending RCW 46.63.020 to include reference to section 5 of Substitute Senate Bill No. 5141.

By Senators Smith and Schow.

Background: During the 1995 session, the Washington Legislature passed SSB 5141 which made a number of changes to the laws governing driving under the influence of liquor or drugs (DUI). One of the changes included in that bill was the creation of a crime such that a person who drives a motor vehicle, is under 21 years of age and has an alcohol concentration of .02 or more is guilty of a misdemeanor.

RCW 46.63.020 contains a list of offenses that may be classified as criminal offenses. If an offense is not listed in 46.63.020, it is classified as a traffic infraction and may not be classified as a criminal offense. SSB 5141 created the new crime of driving a motor vehicle while under 21 years of age with an alcohol concentration of .02 or more as a misdemeanor, yet neglected to list the new offense under RCW 46.63.020.

Summary: RCW 46.63.020 is amended to include the crime of driving a motor vehicle while under 21 years of age with an alcohol concentration of .02 or more.

Votes on Final Passage:

First Special Session

Senate	38	0
House	90	0

Effective: September 1, 1995

SB 6074

C 2 L 95 E1

Expanding the authority of the fish and wildlife commission.

By Senators Sutherland and Rasmussen.

Background: A state commission has been involved in the management of game fish and wildlife since 1933, when a voter initiative created the state Department of Game and the Game Commission. The new commission was charged with hiring the director of the department, establishing the direction and priorities of the agency, adopting hunting and fishing regulations, and other duties. Funding for the agency for the next few decades came

primarily through the sale of various licenses, tags, and permits and from excise taxes on sporting goods.

By 1987, the agency was in a precarious fiscal situation. Legislation enacted in 1987 changed the name of the agency to the Department of Wildlife and provided an infusion of \$8 million to the agency from the state general fund. The legislation also changed the commission's name to the Wildlife Commission, and appointment authority for the agency's director shifted from the commission to the Governor.

In 1993, the Department of Fisheries and the Department of Wildlife merged into the current Department of Fish and Wildlife. The legislation merging the two agencies directed the commission (renamed the Fish and Wildlife Commission) to review its area of responsibility in the consolidated agency and to provide recommendations to the Legislature and the Governor on any necessary changes in its statutory authority.

The Fish and Wildlife Commission completed its review and submitted its recommendations in November 1994. The commission recommends that its authority be expanded to include the following:

- Regulatory authority for all species, including food fish and shellfish;
- Regulatory authority for all user groups, including commercial users;
- Authority for all department agreements, including tribal, interstate, and international agreements;
- Budget approval for the agency;
- Approval of department rules and regulations;
- Responsibility for selection of commission staff; and
- Authority to appoint the director of the department.

Summary: The Legislature supports the recommendations of the Fish and Wildlife Commission with regard to its proposed role in the Department of Fish and Wildlife. Initial statutory changes are made to: Expand the commission's authority to food fish and shellfish and to commercial user groups; give the commission authority over all department agreements; allow the commission to approve the department's budget and rules; and give the commission the responsibility of selecting its own staff and appointing the director of the department. These statutory changes take effect July 1, 1996. By July 1, 1996, the commission must submit a report to the House and Senate Natural Resources Committees identifying other changes necessary for implementing the commission's recommendations.

In making appointments to the commission, the Governor is required to seek a balance reflecting all aspects of fish and wildlife, including representation recommended by organized groups representing sportfishers, commercial fishers, hunters, private landowners, and environmentalists. Commission appointees must comply with state laws on ethics in public service and public disclosure.

A referendum clause specifies that the act must be submitted for a vote of the people at the next succeeding general election.

Votes on Final Passage:

First Special Session

Senate	29	3	
Senate	30	14	(Senate reconsidered)
House	68	29	
House	73	24	(House reconsidered)

Effective: July 1, 1996 (Sections 2-43, upon voter approval at November 1995 general election)

SB 6077

C 17 L 95 E1

Revising probationary licenses and reissue charges for alcohol-related offenses.

By Senator Smith.

Background: The 1995 Washington State Legislature passed SSB 5141, which has been signed into law by the Governor. In SSB 5141, the reissue fee for a driver's license that has been suspended or revoked due to a violation of driving under the influence of alcohol or drugs (DUI) was left at \$50. SSB 5141 also did not require a person who has been convicted of driving or being in physical control of a motor vehicle while under the influence of alcohol or drugs to obtain a probationary license after any period of suspension or revocation.

There is concern that the Department of Licensing will have serious difficulty implementing SSB 5141 without additional revenue.

Summary: The Department of Licensing must place a person's driving privilege in probationary status after the expiration of any period of suspension or revocation resulting from a conviction of driving or being in physical control of a motor vehicle while under the influence of alcohol or drugs.

Votes on Final Passage:

First Special Session

Senate	42	0	
House	92	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: September 1, 1995

SJM 8004

Requesting Congress to direct rejection of Puyallup tribe gaming requests without tribal-state compacts.

By Senator Heavey.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: The Indian Gaming Regulatory Act (IGRA) of 1988 provides a framework that allows tribes to operate gambling activities on tribal lands. IGRA permits tribes to conduct Class I gaming (social games played for prizes of minimal value or traditional forms of tribal games played at tribal ceremonies or celebrations) and Class II gaming (bingo, pulltabs, punchboards, tip jars) without state approval, as long as the state permits such gaming. Tribes desiring to operate Class III gaming (banking card games, blackjack, electronic facsimiles of games of chance, slot machines, and other forms of gaming that are not Class I or Class II gaming) are allowed to do so if done in conformance with a tribal-state compact entered into by the tribe and the state.

IGRA does allow certain tribes to operate specific Class III card games without completion of a tribal-state compact if the tribes were operating these gaming activities on or before May 1, 1988. The Puyallup Indian Tribe has requested the National Indian Gaming Commission to allow the tribe to operate Class III card games under this provision of IGRA, despite the fact that the tribe was not operating such games on or before May 1, 1988.

Summary: Congress is requested to direct the National Indian Gaming Commission to reject the Puyallup Indian Tribe's request to operate card games without the benefit of a tribal-state compact, and to require the tribe to proceed with the legitimate negotiation process with the state of Washington that is established by IGRA.

Votes on Final Passage:

Senate	43	4
House	85	11

SJM 8006

Asking Congress to propose a constitutional amendment to prohibit the physical desecration of the flag.

By Senators Oke, Owen, Roach, Hochstatter, Snyder, Schow, Cantu, Long, Hale, Swecker, A. Anderson, Palmer, Sellar, Deccio, Morton, McDonald, Prince, Johnson, Winsley, Bauer and Rasmussen.

Senate Committee on Law & Justice
House Committee on Government Operations

Background: In 1989 the United States Supreme Court struck down the conviction of a protester for burning a flag in violation of a Texas law. The court held that the application of the Texas law violated the free speech

guarantees of the First Amendment to the United States Constitution.

Congress responded by passing the Flag Protection Act of 1989, which made it a crime to knowingly mutilate, deface or burn a United States flag. In 1990, the Supreme Court held that such a law was unconstitutional on free speech grounds protected by the First Amendment of the United States Constitution. The court held that the government may not statutorily prohibit the expression of an idea simply because society finds the idea offensive or disagreeable.

Summary: Congress is requested to propose an amendment to the United States Constitution for ratification by the states specifying that Congress and the states have the power to prohibit the physical desecration of the United States flag.

Votes on Final Passage:

Senate	40	6
House	75	21

SSJM 8008

Requesting the United States to advocate for the admission of Taiwan to the United Nations.

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Wojahn, Sellar, Snyder, Newhouse, Gaspard, Fairley, Swecker, Deccio, Palmer, Drew, McDonald, Oke, Sutherland and Schow).

Senate Committee on Labor, Commerce & Trade

Background: Taiwan is one of Washington State's major trading partners. Taiwan is not currently a member of the United Nations but desires to become one.

Summary: The Legislature petitions the President and Congress to consider the beneficial commercial relationship between the U.S. and Taiwan, treat public officials of Taiwan with respect, and recognize the readiness of Taiwan to participate in the international community.

Votes on Final Passage:

Senate	39	3	
House	91	0	(House amended)
Senate	40	2	(Senate concurred)

SJM 8010

Postratifying Amendment XXVII.

By Senators Cantu, Fraser, Oke, Winsley, Johnson, Snyder, Hochstatter, Finkbeiner, Strannigan, Schow, Moyer, Palmer, Roach, Deccio and West.

Senate Committee on Government Operations
House Committee on Government Operations

Background: Article V of the United States Constitution states (in part) that whenever two-thirds of both houses of Congress shall propose an amendment to the Constitution, the amendment shall become part of the Constitution when ratified by the legislatures of three-fourths of the states.

Amendment XXVII, proposed by the 1st Congress of the United States, states that "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

On May 7, 1992, the state of Michigan became the 38th state to ratify the constitutional amendment in question; on May 20, both houses of Congress adopted resolutions concluding that the proposal had become Amendment XXVII to the United States Constitution.

Since the amendment was ratified, five additional states have post-ratified the amendment.

Summary: The state of Washington post-ratifies Amendment XXVII to the United States Constitution.

Votes on Final Passage:

Senate	47	0
House	97	0

SJM 8012

Requesting that unemployment benefits be removed from the IRS definition of taxable income.

By Senators Newhouse, Heavey, Deccio, Hale, Palmer, Franklin, Fraser, Prentice, Prince and Oke; by request of Joint Task Force on Unemployment Insurance.

Senate Committee on Labor, Commerce & Trade
House Committee on Commerce & Labor

Background: Due to a 1978 change in the U.S. Internal Revenue Code, unemployment insurance (UI) benefits now are considered taxable income. Taxes are not withheld at the time of UI receipt, but are included in the calculation of year-end gross taxable income.

The Congressional Budget Office estimates that out of the 9.4 million UI beneficiaries in 1994, 8.4 million individuals were impacted by existing UI tax requirements. In monetary terms, of the \$18 billion in UI benefits paid annually to unemployed workers, approximately \$3.1 billion, or 17 percent, goes to pay federal taxes.

The Joint Task Force on Unemployment Insurance in its 1995 report found that "the taxation of UI benefits at

existing income levels appears contrary to the initial purpose of the UI Program, by limiting the available funds to individuals that are experiencing interruptions in income and employment, along with limiting monies in local communities that might benefit from additional disposable income." The Task Force also recommended that the Legislature memorialize Congress to eliminate the taxation of UI benefits.

Summary: The Legislature of the state of Washington requests that Congress remove unemployment benefits from taxation under the Internal Revenue Code.

Votes on Final Passage:

Senate	47	0
House	94	2

SJM 8014

Petitioning Congress regarding water adjudication.

By Senators Fraser, Morton, Winsley and Rasmussen.

Senate Committee on Energy, Telecommunications & Utilities
House Committee on Agriculture & Ecology

Background: A federal law known as the McCarran Amendment allows a state to join the United States as a defendant in a general water right adjudication. However, in 1993 the U.S. Supreme Court ruled in U.S. v. Idaho that the McCarran Amendment does not require the United States to pay the state any fees to finance the costs of water adjudications.

The federal government is a large claimant of water rights which must be quantified in state general stream adjudications. Moreover, under its trust responsibilities, the federal Bureau of Indian Affairs has participated on behalf of Indian tribes in adjudicating Indian reserved claims.

The fees for adjudicating federal and tribal water claims have so far totalled in the millions of dollars, which have been borne by the state government. Future adjudications will result in similar costs to the state.

Summary: Congress is asked to require federal agencies to pay state water adjudication fees, and to require the Bureau of Indian Affairs to pay state water adjudication fees for Indian reserved claims, to the same extent as other claimants.

Congress is asked to appropriate moneys to reimburse states for the costs incurred in adjudicating federal or Indian reserved water rights claims in general stream adjudications.

Votes on Final Passage:

Senate	45	0
House	97	0 (House amended)
Senate	42	0 (Senate concurred)

SSJM 8015

Requesting a variance in order to preserve man-made wetlands.

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Swecker, Oke, McDonald, Wojahn, Deccio, McAuliffe, Hargrove, Rasmussen and Winsley).

Senate Committee on Ecology & Parks
House Committee on Agriculture & Ecology

Background: The Centralia Mining Company operates a surface coal mine at a site located outside the city of Centralia. The coal produced at the mine is sold to the Centralia Steam Plant which supplies power to Seattle City Light, Tacoma City Light, Snohomish County PUD, and other utilities throughout the Northwest.

Surface coal mining operations are regulated under the federal Surface Mining Control and Reclamation Act. Under the act, the Office of Surface Mining within the Department of Interior has adopted regulations that establish standards for the operation and reclamation of surface coal mines. Coal mine operators are required to obtain a permit ensuring that the operation meets the federal standards. In Washington State, permits are obtained directly from the Office of Surface Mining.

Permits for surface coal mines include extensive requirements for reclamation of a site after mining operations are complete. Among these requirements, mine operators are generally required to return the site to the topography and drainage patterns that existed prior to the mining activity.

Summary: Findings are made regarding the importance of preserving wetlands for wildlife habitat, and of certain wetlands created at the site of the Centralia Mining Company's mine in Centralia.

The President of the United States, the Congress, and the Department of the Interior are asked to continue encouraging the Office of Surface Mining to: (1) find ways to preserve wetlands of significant size and value that are created as a result of substantial surface mining activities; (2) recognize the climatic differences in surface mining operations in regions throughout the nation; and (3) allow the states to encourage local mining industries to take advantage of opportunities to preserve and enhance wetlands for the benefit of wildlife, fisheries, and recreation.

Votes on Final Passage:

Senate	47	0
House	97	0

SSJR 8210

Revising size and leadership of the state supreme court.

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, McCaslin, Gaspard, Deccio, Wojahn, Snyder, Haugen, Morton, Long, Hale, Rinehart, Newhouse, Loveland, McDonald, Palmer, Bauer, Oke and Winsley; by request of Supreme Court).

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

Background: The State Constitution provides that the number of judges of the Supreme Court shall be five, but allows the Legislature to increase that number. Since 1909, the number of judges of the Supreme Court has been set by statute at nine. Judges of the Supreme Court are elected to six-year terms.

The State Constitution directs that the Chief Justice of the Supreme Court is to preside over all sessions of the Supreme Court. The Constitution also calls for the Chief Justice to preside in the Senate over impeachment trials of the Governor or Lieutenant Governor. A variety of statutes also gives responsibility and authority to the Chief Justice. For instance, the Chief Justice is given authority over the operation of the Office of the Administrator for the Courts.

The State Constitution prescribes the method for selecting the Chief Justice of the Supreme Court. The regularly elected judge of the Supreme Court having the shortest term left to serve is the Chief Justice. If two judges have the same shortest term left to serve, the other judges of the court must pick the Chief Justice. In the absence of the Chief Justice, the judge with the next shortest term is to preside over the court.

Summary: The State Constitution is amended to change the method of selection of the Chief Justice.

A majority of the judges of the Supreme Court must select one of the judges to be the Chief Justice for a four-year term. The Chief Justice serves at the pleasure of a majority of the court. The court is given rule-making authority over the process of selecting or removing a Chief Justice. In the absence of a Chief Justice, a majority of the remaining judges selects an acting Chief Justice.

Votes on Final Passage:

Senate	40	6
House	68	23

Effective: Upon voter approval at November 1995 general election

SCR 8417

Creating the cigarette tax and revenue loss advisory committee.

By Senators Snyder and McDonald.

Background: The state of Washington imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes equal to 56½ cents per pack. On July 1, 1995, the rate will increase to 81½ cents, and on July 1, 1996, to 82½ cents. In addition, state and local sales and use taxes and business and occupation taxes apply to the sale of cigarettes equal to approximately 18 cents per pack, depending on price. Because price differentials exist between Washington and its neighboring states, an incentive for tax evasion exists.

According to estimates from the Department of Revenue, the state is losing \$24.0 million per year from illegal sales of untaxed cigarettes. These losses occur from casual smuggling from other lower-tax states and the purchase of cigarettes from tax-free outlets such as military post exchanges and Indian smoke shops. The federal supremacy clause and the doctrine of intergovernmental immunity prevent the state from taxing the federal government directly. Therefore, the state is prohibited from taxing sales made by military post exchanges. Federal law also prevents the state from taxing cigarettes sold at an outlet on an enrolled Indian tribal member's tribal reservation to an enrolled tribal member for personal consumption. However, sales made to nontribal members are subject to the tax.

Summary: A joint select committee to be known as the Cigarette Tax and Revenue Loss Advisory Committee is established to study current state law on the unlawful possession, purchase, sale, and use of unstamped and untaxed cigarettes on Indian reservations by nontribal members. The study must include:

- (1) A review and analysis of all lost cigarette tax revenue for 1992 through 1995 and analyzing, among other factors, revenue losses that might be attributable to cigarette tax increases that took effect during that time;
- (2) An analysis on the feasibility of negotiating cooperative agreements between the state and Indian tribes;
- (3) An assessment of the effect of tax rates on cigarette compliance to identify the state's best opportunity to ensure compliance and reduce conflict.

The committee consists of:

- (1) Four members of the Senate, appointed by the President of the Senate;
- (2) Four members of the House of Representatives, appointed by the Speaker of the House of Representatives;
- (3) Two members from the convenience store industry, appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate;
- (4) One wholesaler or distributor of tobacco products, appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate;

(5) Three members representing federally recognized Indian tribes, one appointed by the tribes contained within eastern Washington and two appointed by the tribes contained within western Washington;

(6) The director of Revenue or the director's designee; and

(7) The Governor or the Governor's designee.

Members are reimbursed for travel expenses.

The advisory committee may enlist the assistance of representatives of local government and tax policy experts from the academic, legal, tribal, and business communities and may use the staff of the Governor's Office on Indian Affairs, the House of Representatives' Office of Program Research, Senate Committee Services, and research services provided to the Legislature by the Department of Revenue.

The advisory committee must report its findings to the Legislature by December 31, 1995.

Votes on Final Passage:

<u>First Special Session</u>		
Senate	45	0
House	96	1

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 one sunset report to the Legislature in 1995. This study covering the Puget Sound Water Quality Authority recommended that this organization continue without modification. The Legislature did not take action on this program, which is scheduled to terminate June 30, 1996.

Legislation was enacted which added these programs to the sunset process: the Permit Assistance Center and the Rural Natural Resources Impact Area Programs.

Programs Terminated and Removed from Sunset Through Other Legislative Action

**Puget Sound Water
Quality Authority** ESHB 1410 (C 18 L 95 E2 PV)

New Programs Placed on Sunset Schedule

Permit Assistance Center SHB 1724 (C 347 L 95 PV)

**Rural Natural Resources
Impact Area Programs** E2SSB 5342 (C 226 L 95)

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Increasing public access to government information is the mission of the Washington Information Network (WIN) multimedia kiosks. The kiosks utilize computer, video, and telephone technology to provide the public electronic delivery of information and services.

WIN kiosks offer information and services from more than 20 government agencies in English and Spanish.

WIN kiosks are currently located at 11 sites across the state. More than 120,000 people used the kiosks between August 1, 1994 and February 28, 1995.

WIN is a private/public partnership between the Department of Information Services, IBM, and North Communications.

SECTION II Budget Information

Budget/Balance Sheet

Operating Budget

Capital Budget

Transportation Budget

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1995-97 Washington State Operating Budget (ESHB 1410)

*Compares Legislative Budget As Passed and March 1995 Revenue Forecast
With Budget As Signed by Governor and June 1995 Revenue Forecast*

(General Fund-State, Dollars in Millions)

	March/ Leg	June/ Gov	Difference
RESOURCES			
Beginning Balance from 1993-95	\$494	455	(\$39)
June Revenue Forecast	\$17,945	17,802	(\$143)
<i>Revenue Adjustments</i>			
Tax Reduction Legislation	(504)	(229)	\$275
Other Revenue Legislation (net)	(37)	(40)	(\$3)
Budget Driven Revenue	26	26	\$0
Subtotal	(\$515)	(242)	(\$273)
TOTAL RESOURCES	\$17,924	\$18,015	\$91
EXPENDITURES			
INITIATIVE 601 SPENDING LIMIT	\$17,921	\$17,921	\$0
APPROPRIATIONS	\$17,599	\$17,599	\$0
BALANCE			
ENDING BALANCE	\$325	\$416	\$91

1995-97 Washington State Operating Budget (ESHB 1410)

1995-97 REVENUE ADJUSTMENTS

(GF-State, Dollars in Thousands)

		Legislature As Enacted	After Governor Veto
TAX REDUCTION LEGISLATION			
HB 1023	B&O tax rate reduction	(\$176,290)	\$0
ESSB 5201	Tax exemptions for manufacturing	(148,490)	(148,490)
SHB 1957	State property tax levy reduction	(91,964)	0
HB 1022	One-time property tax reduction	(54,402)	(54,402)
HB 1769	Insurance agents B&O	(11,270)	(11,270)
ESHB 1592	Insurance guaranty funds tax credit	(6,465)	0
HB 1248	Sales tax deferral for horse racing	(3,705)	(3,705)
SB 5728	B&O tax on international investment companies	(3,410)	(3,410)
SB 5129	Excluding utility line clearing from sales tax	(2,840)	(2,840)
ESB 5555	Taxation of massage services	(1,297)	(917)
SHB 1440	Blood bank tax exemptions	(1,172)	(1,172)
SHB 1913	Film production company/tax exemption	(687)	(687)
SHB 1279	Magazine sales/sales tax	(629)	(629)
SB 5200	Use tax exemption for naval equipment	(583)	(583)
HB 1102	Shellfish tax exemptions	(178)	(178)
SB 5755	Tax on property donated to nonprofits	(167)	(167)
SHB 1413	Amusement devices/B&O tax	(116)	0
HB 1611	Youth alternative housing	(104)	(104)
SB 5739	Sales tax exemption for nonprofit organizations	(67)	(67)
SHB 1067	Property tax of hardwoods	(37)	(37)
HB 1057	Canola tax rates	(19)	(19)
TOTAL		(\$503,892)	(\$228,677)

1995-97 Washington State Operating Budget (ESHB 1410)

1995-97 REVENUE ADJUSTMENTS

(GF-State, Dollars in Thousands)

		Legislature As Enacted	After Governor Veto
OTHER REVENUE LEGISLATION			
HB 1787	Interest on transportation funds & accounts	(\$25,156)	(\$25,156)
HB 2076	\$3.80 driver's license fee to Highway Safety Account	(7,855)	(7,855)
SB 6058	Local Public Health Governance	(4,250)	(4,250)
SB 5231	Transportation account tort liability	(2,189)	0
SB 5315	Omnibus agriculture fees	(1,828)	(1,828)
SB 5943	Convention center	(1,175)	(1,175)
SB 5003	Interest on agricultural accounts & fair fund	(643)	(643)
HB 1348	Escrow Agents	(403)	(403)
SB 5064	Regional Fisheries Enhancement	(400)	(400)
HB 1152	Concealed pistol license fees	(170)	(170)
SB 5868	Mobile Home Relocation Assistance Account	(75)	(75)
HB 1995	Health Insurance High Risk	(74)	(74)
SB 5012	Fishery license transfer fee	(67)	(67)
HB 1524	Weights and measures	(29)	(29)
HB 1010	Regulatory Reform	(28)	(28)
SB 5157	Hatchery Salmon Marking	(24)	(24)
HB 1125	Dam Safety Inspections	(12)	(12)
HB 1226	Salmon Charter Licenses	(4)	(4)
HB 1906	Child Care Licensing	10	10
SB 5592	Coastal crab fishing license	24	24
HB 1679	Security guards/private investigators	74	74
HB 1060	Liquor Licenses	237	237
HB 2010	Inmate medical copay	303	303
SB 5219	Domestic violence	474	474
SB 5374	Limited Liability Partnerships	650	650
SB 5334	Corporations Act	652	652
TOTAL		(\$41,958)	(\$39,769)

BUDGET DRIVEN REVENUE		
Treasurer's service account transfer	\$7,361	\$7,361
Direct Mail Advertising	6,883	6,883
Basic Health Plan Reserve Transfer	5,330	5,330
Flood Control Assistance Transfer	4,000	4,000
Liquor Control Board	2,724	2,724
TOTAL	\$26,298	\$26,298

1995-97 Operating Budget Summary

Budget Highlights

K-12 Education

Budget Reductions

Special Education Formula Change — \$60.6 million GF-S savings

Based on a fiscal study of special education conducted by the Institute for Public Policy and the Legislative Budget Committee, the funding formula for special education is updated.

Vocational Education Staffing Ratios — \$32.2 million GF-S savings

Based on a 1994 study by the LEAP committee, the budget reduces the staffing ratio allocation for secondary schools from one staff per 16.67 students to one staff per 18.3 vocational students. The skill center staffing ratio remains at one staff per 16.67 students.

Administrator Salary Reduction — \$20.0 million GF-S savings

Salary allocations for administrators are reduced 4.9 percent.

Education Reform — \$20.1 million GF-S savings

Reductions of up to ten percent are made to selected education reform programs. The equivalent of three days are provided through the block grant program for activities consistent with improving student learning.

School Bus Purchase Changes — \$15.0 million GF-S savings

Senate Bill 5408 provides for reimbursement of bus purchase costs based on the lowest bids received by the state for each category of bus meeting specifications developed by local and state transportation providers.

Health Benefits — \$15.0 million GF-S savings

K-12 employee benefits are funded at the same level as benefits for state and higher education employees. The funding rate is \$313.95 per employee per month for the 1995-96 school year and \$314.51 per employee per month for the 1996-97 school year. A merger of K-12 under the Health Care Authority is not mandated.

Safety Incentives — \$15.9 million GF-S savings

The budget requires that school districts strictly adhere to the existing law which requires mitigation of unsafe walking areas.

Non-Basic Education Program Reductions — \$4.7 million GF-S savings

The budget reduces most non-basic education programs by 10 percent. Programs affected include: Educational Service Districts; Highly Capable; Magnet Schools; Complex Needs; Pacific Science Center; Education Centers; and

Cispus Environmental Program. Inflation for non-basic education programs is also eliminated.

State Office (OSPI) — \$1.4 million GF-S savings
Funding for the Office of the Superintendent of Public Instruction is reduced by 7.5% and 9 staff positions.

Budget Enhancements

Salary Increase — \$219.8 million GF-S

The budget provides funding for a 4 percent salary increase effective September 1, 1995 for K-12 staff. A 4 percent increase is also provided for substitute teachers.

Improved Administration Systems — \$1.7 million

The budget provides funds to the Superintendent of Public Instruction to purchase necessary software and equipment to stay compatible with the K-12 system.

Higher Education

Budget Reductions

Program Reductions — \$39 million from internal savings

The 1994 supplemental budget bill directed all higher education institutions to prepare for reductions of 2.4 percent at the 4-year institutions and 2.0 percent at the 2-year institutions to support salary increases during the 1995-97 biennium. The reductions fund \$39 million of the \$71 million cost of the 4 percent higher education salary increase which begins on July 1, 1995.

Budget Enhancements

Access to Higher Education — \$22.0 million GF-S, \$10.1 million Employment and Training Trust Fund, \$9.5 million local tuition funds

Funding is provided for 5,258 additional enrollments for public higher education. Of this amount, 2,058 are earmarked for the 4-year institutions while 3,200 are assigned to the community and technical colleges. Funding is provided at the average rates listed in the Higher Education Coordinating Board's Educational Cost Study for undergraduates and graduate students.

Financial Aid — \$20.2 million GF-S, \$7.6 million Employment and Training Trust Fund

The budget adds \$11.7 million to the State Need Grant which is administered by the Higher Education Coordinating Board. An additional \$7 million is included for increased financial aid administered by the institutions. \$1.6 million is provided for grants to recipients of the Washington Scholars Award and the Washington Award for Vocational Excellence. \$7.6 million is provided for extended

unemployment benefits and job placement assistance for displaced workers at the Community and Technical Colleges.

Tuition Increase — \$36.5 million Tuition Revenue
SB 5325 increases tuition rates by 4 percent in 1995-96 and an additional 4 percent in 1996-97. Additional tuition revenue is retained by the institutions.

Human Services

COMPENSATION

Budget Enhancements

Social Services Vendor Rate Increases — \$40.4 million GF-S, \$2.2 million Violence Reduction and Drug Enforcement Account, \$0.3 million Health Services Account, and \$25.1 million Federal

Private individuals and agencies which contract with DSHS to provide home care, foster care, community residential care, vocational training, mental health care, and other community-based services will receive a 2 percent increase effective July 1, 1995 and an additional 2 percent increase on July 1, 1996.

Improved Basic Health Plan Premium Subsidies for Home Care Workers — \$9.9 million Health Services Account, \$5.9 million GF-Federal

The budget provides enhanced subsidies to encourage enrollment in the Basic Health Plan by home care workers with incomes under 200 percent of the federal poverty level employed through state-funded long-term care programs.

Home-Care Worker Travel Time — \$4.0 million GF-S, \$1.8 million Federal

Funding is provided to reimburse employees of chore, COPES, and personal care agencies for the time they spend traveling among clients' homes during the course of their workday.

Health Care

Budget Reductions

Phase-Out Medically Indigent and Medically Needy-AFDC Programs — \$37.8 million GF-S, \$8.2 million Federal savings

The budget eliminates coverage of emergency and crisis health care (the Medically Indigent and Medically Needy-AFDC programs) for certain adults. However, persons eligible for these programs will be entitled to Basic Health Plan coverage with minimal premium payments, thereby replacing temporary emergency health care coverage with full-time health insurance coverage. Acknowledging the need for a transition period as persons who would have used these programs are enrolled in the Basic Health Plan, the budget provides \$10 million HSA as a safety net to cover the cost of emergency care in FY 1997 for low income persons who do not obtain Basic Health Plan coverage.

Managed Care Savings — \$10.4 million GF-S, \$13.4 million Federal savings

The budget continues to expand the number of Medical Assistance recipients covered through managed care plans and calls for the per-person amounts paid to managed care plans to be set through a competitive bidding process.

Selective Contracting — \$8.6 million GF-S, \$8.2 million Federal savings

The budget requires selective contracting to encourage competition and reduce costs for medical supplies, wheelchairs, durable medical equipment and other items purchased in large quantities.

Budget Enhancements

Basic Health Plan Enrollment Increase and Subsidies — \$241.9 million Health Services Account

The budget funds the increased enrollment, expanded benefits and improved state premium subsidies resulting from Engrossed Substitute House Bill 1046 and Engrossed Senate Bill 5386. Subsidized BHP enrollment is expanded to a total of 200,000 low-income adults by the end of the 1995-97 biennium, including 100,000 employer-sponsored enrollees. In addition, employers are required to pay no more than the premium amount paid by the employee to enroll employees and the premium subsidy is increased for persons with income between 125 percent and 199 percent of the federal poverty level. Included in BHP funding is \$2.0 million to promote BHP enrollment, including commissions to private insurance brokers and administrative costs to provide for enrollment in Women Infants and Children Program (WIC) sites and welfare offices.

Fetal Alcohol Syndrome Diagnostic Center — \$400,000 Health Services Account

Funding is provided for the Fetal Alcohol Syndrome (FAS) diagnostic center to provide training, technical assistance, and consistency in diagnosis, protocol and patient outcome assessment.

Long Term Care

Budget Reductions

Alternatives To Nursing Home Care — \$16.9 million GF-S savings

By the end of the 1995-97 biennium, at least 1,600 people who would otherwise be in nursing homes will instead have the option of remaining in their own homes, or moving to adult care homes or private assisted living apartments. To assure the viability of these alternative care arrangements, community payment rates are increased for persons with greater care needs; new funding is provided for Area Agencies on Aging to use for increased respite care, home-delivered meals, or other locally-identified priorities; and new state and local case managers are added to help families identify and obtain needed services when

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patients are ready to be discharged from hospitals and nursing homes.

Manage Nursing Home Rate Growth — \$19.3 million GF-S, \$19.5 million Federal savings

As a result of changes in the nursing home payment system in Substitute House Bill 1908, nursing home rates will increase by an average of 7 percent each year in 1995-97, rather than by the average of 9 percent each year by which they would have increased under previous law.

Increase Personal Financial Responsibility — \$7.8 million GF-S, \$1.0 million Federal savings

Substitute House Bill 1908 increases the state's ability to recover the cost of state-funded long-term care from a recipient's estate after his or her death when there is no surviving spouse or dependent child. The bill also requires chore services recipients to contribute more to their cost of care, while increasing to 100 percent of the federal poverty level the amount which recipients of in-home care are allowed to keep for living expenses.

Budget Enhancements

Community Long-Term Care Quality Improvement — \$3.6 million GF-S, \$3.7 million Federal

As provided in Substitute House Bill 1908, a major initiative will be undertaken to safeguard and improve the quality of long-term care provided to people in their own homes and in community residential care facilities. Major components of this initiative will include initial and follow-up training for all community care providers; training and oversight by nurses for caregivers who are providing delegated nursing tasks; increased monitoring of community residential facilities; and a 40 percent expansion in the long-term care ombudsman program.

Developmental Disabilities and Mental Health

Budget Reductions

Developmental Disabilities Residential Efficiencies

The budget directs the Division of Developmental Disabilities to provide 24-hour out-of-home care to 150 additional adults within current funding levels. This is to be accomplished through strategies such as (1) serving persons in larger residential groupings, in conjunction with the \$4 million appropriation for development of safe and affordable housing in the capital budget; and (2) reducing service levels to people who are ready to live more independently, and using the extra resources to serve additional persons. First priority for these new residential options is to be given to adults living with elderly parents who are nearing an age when they can no longer care for their son or daughter at home. —*Governor vetoed*

Improved Management of Local Mental Health Hospitalizations — \$1.3 million GF-S, \$1.4 million Federal savings

By substituting enhanced outpatient, crisis response, and case management services for more expensive hospital care, mental health. Regional Support Networks are expected to reduce the cost of voluntary Medicaid psychiatric hospitalizations by 15 percent. Half of the net savings from this reduction are to be provided as bonus payments to the Regional Support Networks, to be used for expansion of community mental health services.

Budget Enhancements

Developmental Disabilities Family Support — \$4 million Health Services Account

Families will receive respite care and other support services to help them continue to care for their developmentally disabled son or daughter at home. The budget provides expansion to an estimated 125 families in Fiscal Year 1996 and to at least 875 families in Fiscal Year 1997 who are currently unserved.

Developmental Disabilities High School Transition — \$3.3 million GF-S, \$1.3 million Federal

Funds are provided to continue employment and day training programs for young adults with developmental disabilities who graduated from high school in the 1993-95 biennium (\$0.6 million GF-S), and to provide such services for an additional 750 young adults who will graduate during the 1995-97 biennium (\$1.7 million GF-S).

Developmental Disabilities Managed Care Initiative — \$4 million Federal

The budget directs the DSHS Division of Developmental Disabilities to obtain additional federal matching funds, under its existing Medicaid waiver and, to the extent needed, under a new managed care waiver. Half of these increased federal earnings are to be used to provide adult care home, cooperative living, and in-home care services to an additional 500 adults by the end of the biennium. The balance of the increase is to be used to provide employment and day program services for 250 adults living at home with their families. Priority for both types of service is to be given to adults living with elderly parents who are nearing an age when they can no longer care for their son or daughter at home.

Economic Services

Budget Reductions

General Assistance-Unemployable Eligibility — \$7.6 million GF-S savings

The eligibility criteria for the General Assistance-Unemployable program will be analyzed, along with client characteristics and length-of-stay data, to determine what, if any, changes are required to improve the effectiveness and

reduce the cost of the program. Study recommendations will then be implemented effective July 1, 1996.

Supplemental Security Income Cap — \$6.7 million GF-S savings

Supplemental Security Income (SSI) payments are capped by limiting total state supplemental payments to the calendar year 1994 level. As the SSI caseload grows, the supplemental payment to each recipient would be reduced by an average of \$3.19 per month.

General Assistance for Pregnancy Limitations — \$5.2 million GF-S savings

Funding for the General Assistance for Pregnancy (GA-S) program is capped at \$7.7 million for the 1995-97 biennium. Cash grants will be prioritized based on the criteria established in SHB 2083, with highest priority given to women who are unable to work due to pregnancy-related medical conditions, developmentally disabled, mentally ill, homeless, or diagnosed as HIV-positive. —*Governor vetoed*

AFDC to SSI Facilitation — \$1.8 million GF-S, \$1.4 million Federal savings

Additional staff are funded to facilitate the enrollment of disabled AFDC recipients in the federal SSI program, thereby saving state funds while increasing recipients' cash benefits.

Administrative Staff Reduction — \$1.1 million Federal savings

Headquarters staff are reduced by 10 percent.

Budget Enhancements

ACES Funding — \$7.2 million GF-S, \$7.4 million Federal

Funding is provided to implement the Automated Client Eligibility System (ACES) and to transition it to a more flexible architecture. This will free staff time and provide additional information necessary to assist AFDC recipients in attaining employment.

Children's and Juvenile Services

Budget Reductions

Special Children's Projects — \$2.2 million GF-S savings

Funding for two local pilot projects is discontinued after fiscal year 1996: Continuum of Care and Street Youth.

Eliminate PIP Program — \$1.9 million GF-S savings

Special funding for this pilot program, which has provided school-based early mental health intervention services in 29 school districts, is discontinued. The needs formerly addressed through these projects is expected to be largely met through the substantial expansions which have occurred over the past several years in eligibility for and

availability of children's mental health services; through Readiness-to-Learn grants; and through Community Public Health and Safety Networks.

Budget Enhancements

Non-offender At-Risk Youth — \$10.1 million GF-S, \$1.4 million Federal

The budget funds the Non-offender At-Risk Youth legislation (Engrossed Second Substitute Senate Bill 5439) which allows for the involuntary alcohol, substance abuse, and mental health treatment of minors; an evaluation of drug and alcohol treatment programs for minors; and the placement of runaways in secure crisis residential center facilities; and strengthens truancy provisions.

Foster Care Planning, Health & Safety — \$7.3 million GF-S, \$7.5 million Federal

Funding is provided to recruit new foster homes and to enable all foster parents to receive training. The budget increases funds to meet caseload growth in employed foster parent child care and directs funding at specific, outcome based solutions to reduce caseloads and enhance the health and safety of foster children. This includes increases in the number of caseworkers, licensors for foster homes and child care, contract monitors, and specialists to enhance local level efficiency and effectiveness. Funds are also provided for planning efforts for the Tribal-State Indian Child Welfare Agreement.

Family Policy Council and Community Public Health and Safety Networks — \$2 million Violence Reduction and Drug Enforcement Account and \$8.4 million Federal

The budget provides \$1.1 million of VRDE funding in fiscal year 1996 for community public health and safety networks to complete the planning necessary for the expenditure of \$8.4 million of federal funding for direct services to families. \$637,000 is provided to DSHS for combination and assistance, and \$300,000 is provided for an evaluative study to be completed by the Institute for Public Policy.

CAMIS Enhancement — \$1.6 million GF-S, \$10 million Federal

Funds are provided to allow DSHS to meet federal child welfare information system requirements and to take advantage of a 75 percent federal match for additional enhancements to the Case and Management Information System. This expenditure will result in savings in the second fiscal year of the biennium, offsetting a \$1.6 million GF-S expenditure in the first year.

Services to Families — \$2.6 million GF-S

The budget funds the Family Preservation Services legislation (Engrossed Substitute Senate Bill 5885), which creates a new level of services to families. DSHS is directed to conduct a study and report to the legislature by Decem-

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ber of 1995. \$2.5 million is then available to provide the new services to families.

Criminal Justice

Budget Reductions

Department of Corrections Administrative Reductions — \$5.5 million GF-S savings

The budget implements efficiencies and reduces administration in the Department of Corrections by \$5 million. Highest and best use analysis provides savings at McNeil Island Corrections Center, as well as consolidation of services at Monroe.

Department of Corrections Medical Cost Reductions — \$1.4 million GF-S savings

Savings of \$1.4 million will be expected from lower medical costs due to health care cost containment strategies, inmate co-pay for medical services, and drug testing efficiencies.

Inmate Recreation Reduction — \$3 million GF-S savings

Funding for inmate recreation will be reduced by approximately 50 percent, saving \$3 million.

Budget Enhancements

Correctional Industries Expansion — \$2.7 million GF-S, \$1.3 million federal Bureau of Justice Assistance Account

Correctional industries will receive a total of \$4.1 million to expand inmate employment using real jobs to teach inmates vocational skills to better prepare them for life after prison.

Hard Time For Armed Crime/Sentencing Change — \$4.7 million GF-S

Initiative 159 (Hard Time for Armed Crime) is funded in the budget. The initiative increases sentences by as much as five years for felonies committed with a firearm, increases penalties associated with possession of a firearm, and denies earned early release credits on the sentence enhancement.

State Patrol Crime Labs and Justice Information Networks — \$6.8 million various other funds

The budget provides over \$6.8 million in resources to the State Patrol for improving criminal justice efforts in Washington. Crime Laboratory improvements are a top priority with funding increases in lab personnel such as forensic scientists, document examiners, and evidence custodians; a new bar coding system to track evidence submitted for testing and upgrades and new equipment including implementation of the Polymerase Chain Reaction (PCR) method of DNA typing. Two Justice Information Network proposals, the Washington Crime Information Center (WACIC) and the Washington State Information System (WASIS) are funded to update and redesign these vital information links for law enforcement.

State Toxicology Lab Enhancements — \$1.6 million various funds

The budget provides an additional \$1.6 million for the State Toxicology laboratory which is responsible for processing DWI samples in drunk driving cases, and also determines cause of death and assists local counties with autopsy costs.

Domestic Violence Automated Report System — \$106,000 Public Safety and Education Account

The Criminal Justice Training Commission receives funding for the Washington Association of Sheriffs and Police Chiefs (WASPC) to implement an automated reporting system for domestic violence incidents. The Commission will also add 20 hours of training in the basic law enforcement academy to provide domestic violence instruction to law enforcement personnel.

Natural Resources

Budget Reductions

Plan for Elimination of the State Energy Office — \$824,000 GF-S and \$16.8 million various other funds savings

The Washington State Energy Office is funded for the first fiscal year of the biennium. During that time, the Public Policy Institute is directed to review options regarding the distribution of energy related functions to other entities and develop an implementation plan for the closure of the State Energy Office.

Merger Efficiencies — \$923,000 GF-S and \$1.5 million total savings

The Department of Fish and Wildlife has identified additional efficiencies resulting from the merger of the two separate agencies. These efficiencies occur in administrative and management areas and are obtained by eliminating duplicative services, collocations and greater use of automated systems.

Budget Enhancements

Centralized Park Reservation System — \$3.5 million Parks Renewal and Stewardship Account

A centralized computer reservation system is funded improve the ability of park users to make reservations. Park revenues are expected to increase by 30 percent as a result of this system.

Fish Hatcheries — \$1.3 million GF-S, \$200,000 Recreational Fish Enhancement Account

No hatcheries are closed and fish production is maintained at the current level. Additionally, funding is provided to implement Second Substitute Senate Bill 5157, which requires the Department of Fish and Wildlife to mark all hatchery Coho. Hatchery fish marking will allow a selective harvest of hatchery fish in 1997. \$250,000 is also provided to supplement the warm-water fishing program.

Park Improvements — \$1.3 million GF-S, \$1.7 million Parks Renewal and Stewardship Account

Funding is provided to operate new or expanded parks and trail systems, expand volunteer programs, and purchase equipment. Among park expansions is a 200 person group camp at Wenatchee Confluence State Park and three newly acquired trail systems—Iron Horse Trail (on Mt. Washington), Rails to Trails (Chehalis to South Bend), and East Pasco to Fish Lake (near Spokane).

Habitat Partnerships — \$1.8 million GF-S

Habitat Partnership funding will increase technical assistance to landowners and local governments. Additional resources will be directed towards helping local governments integrate fish and wildlife habitat planning with Growth Management Act planning. Wildlife modules will be implemented to allow comprehensive watershed analysis and forest practice reviews. Hydraulic Permit applicants will be given greater opportunities for pre-project technical assistance which will reduce the number of refused projects, increase approval time and improve fish habitat.

Jobs in the Environment — \$13 million various funds

Funding is provided for critical watershed restoration work. Funding will be used to address watersheds identified by the Watershed Coordinating Council. Restoration work will include stream cleanup, forest road improvement, repair of culvers and removal of fish barriers. The department will give employment priority to displaced natural resource workers.

Governmental Operations

Budget Enhancements

Regulatory Reform — \$4.4 million GF-S, \$6.3 million other funds

Funding is provided to improve the state's regulatory climate through implementation of Engrossed Substitute House Bill 1010 (Regulatory Reform). Fourteen agencies are provided resources to re-examine and revise rules. Technical assistance efforts are also enhanced to help compliance with regulations.

Americorps — \$300,000 GF-S, \$12.0 million Federal

Federal funding will allow the state to participate in the new federal National and Community Service Act (Ameri-corps) to increase the participation of volunteers in public service.

Judicial Information System — \$5.6 million Judicial Information System Account

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. Over \$5.6 million is provided

for the expansion of the judicial information system to 42 additional courts; improvement to the alias detection and information exchange systems; and enhancements to the juvenile court information system.

Liquor Control Board Point-of-Sale — \$722,000 Liquor Revolving Account

Washington state liquor stores will have a new Point-of-Sale (POS) system to improve sales tracking, inventory control, and tax information. By adding regulatory staff to free agents from licensing paperwork, the time spent by enforcement agents in the field will be increased.

Board of Tax Appeals — \$700,000 GF-S

Funding is provided for a five year plan to reduce the current tax appeals backlog.

Compensation

Budget Enhancements

Across-the-Board Salary Increases — \$364 million GF-S, \$90 million various other funds

The budget provides a 4 percent salary increase to state and higher education employees beginning July 1, 1995 and to K-12 employees beginning September 1, 1995.

Longevity, Education and Experience Increments — \$120 million GF-S, \$34 million various other funds

In addition to the funding provided for the across-the-board salary increase, the budget recognizes that employees receive salary increases through other mechanisms as well. For example, longevity increases for state and higher education employees will provide an additional \$28 million GF-S and \$62 million all funds in salary dollars next biennium increasing salary costs by 1 percent. Education and experience increments for K-12 employees will provide an additional \$92 million GF-S in salary dollars next biennium, increasing K-12 salary costs by 1.6 percent each year.

Community and Technical College Faculty Increments — \$4 million GF-S

\$4million GF-S is provided for education and experience increments for Community and Technical College faculty.

Personnel Resources Board Salary Adjustments — \$5 million GF-S, \$5 million various other funds

Another way employees receive salary increases is through salary adjustments approved by the Washington State Personnel Resources Board. The budget provides an additional \$5 million GF-S, \$10 million all funds, for state employee salary increases to address documented recruitment and retention difficulties, salary compression and inversion, and salary inequities. Agencies may absorb another \$2.5 million GF-S and \$2.5 million other funds for these purposes. The cost of salary adjustments approved by the Board must not exceed these amounts.

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Other Salary Inequities — \$5.3 million GF-S, \$1.5 million Attorney General Revolving Fund

The budget provides funding (\$2.3 million General Fund-State, \$3.8 million total) to maintain competitive compensation for experienced staff attorneys in the Office of the Attorney General. In addition, \$3.2 million General Fund-State is provided for an additional 5 percent salary increase on July 1, 1995 for librarians, counselors and other professional staff at the University of Washington, in accordance with the market gap remedy plan required by the legislature in the 1993-95 biennial budget.

Employee Health Benefits and Retiree Health Benefit Subsidy — \$9 million GF-S, \$6 million other various funds

For state and higher education employees, the budget funds medical inflation at 7.5 percent annually, and assumes 18.2 percent savings, the implementation of which is to be determined by the Public Employees Benefits Board. The Board may increase point-of-service cost sharing, require employee premium co-payments or implement managed competition. The monthly funding rates per employee are \$313.95 in Fiscal Year 1996 and \$314.51 in Fiscal Year 1997.

The health benefit subsidy to medicare-eligible state and K-12 retirees is increased from \$34.20 per retiree and spouse to \$36.77 beginning January 1, 1996 and to \$39.52 beginning January 1, 1997. The subsidy increases reflect a 7.5 percent annual increase, in keeping with the Health Care Authority's estimate of medical inflation.

Plan 1 Pension COLA — \$7.7 million GF-S, \$2.8 million various other funds

The budget provides funding for Senate Bill 5119, which provides a new, flat dollar per month adjustment for TRS and PERS Plan 1 retirees beginning at age 66. The adjustment in 1995 will be fifty-nine cents per month per year of service. The adjustment amount is increased by three percent each year.

Revenue Adjustments

Tax Reduction Legislation

B&O Tax Rate Reduction — \$173.1 million GF-S revenue decrease

Business and Occupation Tax rate increases on service business that were adopted in 1993 are cut in half, effective July 1, 1995. The rate for selected business services is reduced from 2.5 percent to 2.0 percent. The rate for financial businesses is reduced from 1.7 to 1.6 percent. The rate for other services is reduced from 2.0 percent to 1.83 percent. (EHB 1023) —*Governor vetoed*

Sales Tax Exemption for Manufacturing — \$148.5 million GF-S revenue decrease

Based on the recommendations of a special advisory committee established by the 1994 legislature, Engrossed Substitute Senate Bill 5201 exempts from sales and use taxes, new and replacement machinery and equipment used directly in the manufacturing process and pollution control equipment used in a manufacturing facility, including installation labor and services. The measure also revises the distressed area and high technology tax deferral programs. (2ESSB 5201)

Property Tax Reductions — \$146.4 million GF-S revenue decrease

Property taxes levied by the state for collection in calendar 1996 will be reduced by 5% as a permanent reduction; and an additional 4.7% as a one-time reduction. The first reduction (\$91,964) is "permanent" because it is subtracted from the base used to calculate levies for 1997 and thereafter. Under current law, the total state levy for a year is 106% of the previous year's levy, plus an adjustment for the value of new construction added to the rolls during the year. Under HB 1957, the permanent reduction in the 1996 levy will be included in the 106% calculation for the 1997 levy. The one-time reduction in the 1996 (\$54,402) levy will not will not be included in the 106% calculation for the 1997 levy. (SHB 1957 and HB 1022) — *Governor vetoed the permanent property tax reduction measure (HB 1957).*

Insurance Agents B&O Tax — \$11.3 million GF-S revenue decrease

The B&O rate for insurance agents is cut in half to 0.57%. (ESHB 1769)

Insurance Guaranty Funds — \$6.5 million GF-S revenue decrease

Insurance companies can claim insurance premiums tax credit for payments into funds that pay customers of failing companies. These credits were repealed in 1993. Before 1993, the companies had to spread credits for an assessment over 5 tax years. Under this 1995 legislation, the credits will be spread over 10 years. (ESHB 1592) —*Governor vetoed*

Sales Tax Deferral for Horse Racing — \$3.7 million GF-S revenue decrease

A sales and use tax deferral program for the labor and materials associated with the construction of a new thoroughbred horse racing facility in Western Washington is established. Taxes would be deferred for five years from the date the facility is operationally complete. (HB 1248)

Business & Occupation (B&O) Tax on International Investment Companies — \$3.4 million GF-S revenue decrease

The B&O tax rate on businesses which provide interna-

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tional investment management services is reduced from 1.7 percent to 0.287 percent. (SB 5728)

Excluding Utility Line Clearing from Sales Tax — \$2.8 million GF-S revenue decrease

Pruning, trimming, repairing, removing, and clearing of trees and brush near electrical transmission or distribution lines or equipment, performed by or at the direction of an electric utility company, is not subject to the sales and use tax. (SB 5129)

Taxation of Massage Services — \$1.3 million GF-S revenue decrease

Massage services are exempted from retail sales tax. A new B&O tax classification is created for massage services at a rate of 0.471 percent, which is the same rate as retailing. (ESB 5555) —*Governor vetoed the special B&O rate of 0.471%. Therefore, massage service providers will pay the 2.09% other services rate.*

Blood Bank Tax Exemption — \$1.2 million GF-S revenue decrease

The current property tax exemption for blood banks is expanded to include leased property. A new B&O exemption is created for the gross income of blood banks. A new sales tax exemption is created for purchases of medical equipment and supplies by blood banks. (SHB 1440)

Film Production Company Tax Exemption — \$687,000 GF-S revenue decrease

Production equipment rented to film and video production companies is exempt from sales tax. Production services such as film processing are also exempt. (SHB 1913)

Magazine Sales/Sales Tax — \$629,000 million GF-S revenue decrease

A sales tax exemption is provided for sales of magazines by subscription for school and youth group fund-raising. (SHB 1279)

Use Tax Exemption for Naval Equipment — \$583,000 GF-S revenue decrease

Installation of naval aircraft training equipment is exempted from the use tax that is ordinarily imposed on the installation of equipment. This exemption is intended to apply to the Whidbey Island Naval Air Station. (SB 5200)

Shellfish Tax Exemptions — \$178,000 GF-S revenue decrease

Shellfish are exempt from food fish tax, if grown from larvae which are under the control of the grower at all times. (HB 1102)

B&O and Sales Tax Exemption for Nonprofit Organizations — \$155,000 GF-S revenue decrease

The income threshold for B&O Tax exemption and Sales Tax exemption for income from bazaars and rummage sales held by nonprofit organizations is increased from \$1,000 to \$10,000. (SB 5739)

Amusement Devices B & O Tax — \$116,000 million GF-S revenue decrease

A coin-operated game owner may deduct amounts paid to a premises owner before computing B&O tax. (SHB 1413) —*Governor vetoed*

Youth Alternative Housing — \$104,000 million GF-S revenue decrease

A sales tax exemption is provided for construction materials for youth alternative housing. (HB 1611)

Property Donated to Nonprofit Organizations — \$167,000 GF-S revenue decrease

Property donated to a nonprofit charitable organization, the state, or local government is exempt from use tax. (SB 5755)

Short-Rotation Hardwoods Taxation — \$37,000 GF-S revenue decrease

Hardwood trees maturing in 10 years or less, such as hybrid cottonwoods, that are cultivated by agricultural methods are exempt from the timber excise tax and subject to property tax. The land itself is not subject to current use valuation as forest land. This is similar to the tax treatment of Christmas trees. (SHB 1067)

Canola Tax Rates — \$19,000 GF-S revenue decrease

The B&O rate is reduced from 0.484 to 0.144% for manufacturing and to 0.011% for wholesaling of canola oil, meal, and by-products. (HB 1057)

Senior/disabled property tax exemption — No GF-S revenue impact

The income threshold is increased from \$26,000 to \$28,000 for the property tax exemption for senior citizens and persons retired due to disability. The cost of prescription drugs may be deducted from income when determining eligibility. The assessed value for a residence in this program will be frozen when the owner enters the program. The total amount of property taxes levied by the state is generally not affected by increases in exemptions. The levy rate rises as necessary to offset the exemption amounts. Thus, there is no revenue loss associated with this legislation. (2ESSB 5001)

Other Revenue Legislation

Interest on Transportation Funds and Accounts — \$25.2 million GF-S revenue decrease

Transportation accounts will retain interest earnings on those accounts, rather than the general fund. (HB 1787)

\$3.80 Driver's License Fee to Highway Safety Account — \$7.9 million GF-S revenue decrease

\$3.80 of the drivers' license fee will be deposited in the highway safety fund rather than the general fund. (HB 2076)

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Transportation Account Tort Liability — \$2.2 million GF-S revenue decrease

A new transportation account is created within the tort liability account. The transportation account is comprised only of motor vehicle or transportation fund monies. Interest earned on the account will remain in the account rather than go to the general fund. (SB 5231) —*Governor vetoed*

Omnibus Agriculture Fees — \$1.8 million GF-S revenue decrease

This measure would deposit revenue generated by pesticide registration fees in the agricultural local fund rather than the general fund. Registrants may also elect to pay for a two-year period rather than annually. (SB 5315)

Convention Center — \$1.2 million GF-S revenue decrease

State sales tax on construction of the state convention center will be deposited in the convention center account, rather than the general fund. (SB 5943)

Interest on agriculture funds and accounts — \$643,000 GF-S revenue decrease

Agriculture accounts will retain interest earnings on those accounts, rather than the general fund. (SB 5003)

Concealed pistol license fees — \$170,000 GF-S revenue decrease

The fee increases adopted in 1994 are reduced. Original license fee reduced from \$50 to \$36. Renewal fee reduced from \$50 to \$32. (SHB 1152)

Fishery license transfer fee — \$1.2 million GF-S revenue decrease

Reduces fee to transfer commercial salmon license from one resident to another. (SB 5012)

Weights and measures — \$1.2 million GF-S revenue decrease

Replaces inspection fees with annual license fee. Moves weigh master fees from general fund to the weights and measures account. (HB 1524)

Corporations Act — \$1.2 million GF-S revenue increase

Extends reinstatement period for for-profit corporations from 3 to 5 years. Reinstatement application fee revenue will increase as a result. (SB 5334)

Limited Liability Partnerships — \$1.2 million GF-S revenue increase

A new form of business association known as a registered limited liability partnership is created. Two or more persons may become a registered limited liability partnership by applying with the Secretary of State and paying the \$175 application fee. (SB 5374)

Domestic Violence — \$474,000 GF-S revenue increase

Eliminates the July 1, 1995 sunset date on extra \$5 marriage license fee for child abuse funding. (SB 5219)

Inmate Medical Copay — \$303,000 GF-S revenue increase

The Department of Corrections is authorized to charge offenders nominal co-payments of at least \$3.00 per visit for offender-initiated, non-emergency health care services. Payments are collected directly from an offender's institution account by the superintendent. Services will not be refused because of an offender's inability to pay. (HB 2010)

Coastal Crab Fishing License — \$74,000 GF-S revenue increase

Revising qualifications for coastal crab fishing licenses. Expands the number eligible for license. (SB 5592)

Security Guards/Private Investigators — \$71,000 million GF-S revenue increase

Revising regulation of security guards and private investigators. Fee established for transferring a license from one employer to another. (HB 1679)

Budget Driven Revenue

Treasurer's Service Account Transfer — \$7.4 million GF-S revenue increase

This represents a transfer to the general fund of revenues in excess of cash requirements for the Treasurer's Service Account.

Direct Mail Advertising — \$6.9 million GF-S revenue increase

The budget confirms the ability of the Department of Revenue to collect use tax on advertising materials printed outside the state and mailed directly to Washington residents at the direction of an in-state business to promote sales of products or services. The use tax is a complement to the sales tax and applies to items used in this state that would be taxable if purchased in this state.

Basic Health Plan Reserve — \$5.3 million GF-S revenue increase

Unspent monies in the Basic Health Plan Trust Account are transferred to the general fund.

Flood Control Assistance Transfer — \$4 million GF-S revenue increase

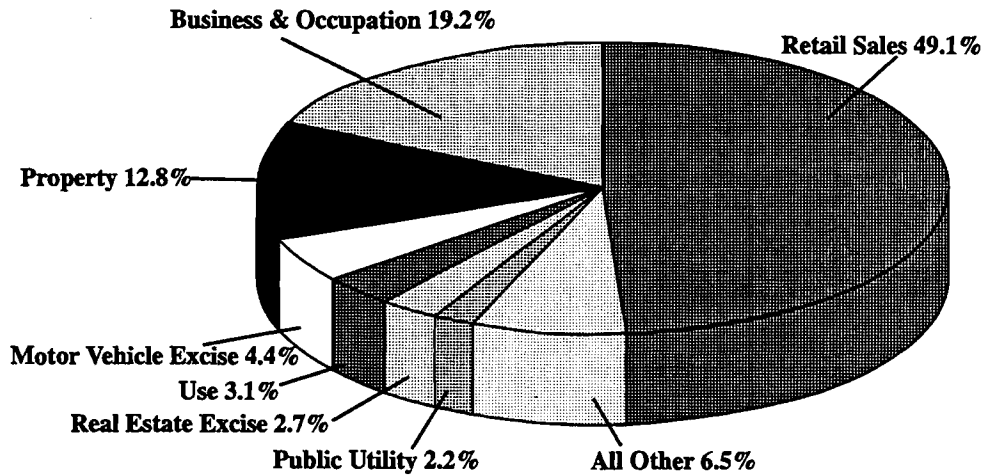
Current law requires a \$4 million transfer from the General Fund to the Flood Control Assistance Account. Rather than transferring \$4 million from the General Fund, \$4 million is transferred from the Public Works Assistance Account to the Flood Control Assistance Account. This action increases general fund resources by \$4 million. The flood control program continues being funded at the \$4 million level.

Liquor Control Board — \$2.7 million GF-S revenue increase

Expenditure reductions in the budget for the Liquor Control Board allow a greater transfer of agency profits to the general fund.

Washington State Revenue Forecast — June 1995
1995-97 General Fund-State Revenues by Source
Reflecting Governor's Vetoes

(Dollars in Millions)



SOURCES OF REVENUE

Retail Sales	\$8,615.8
Business & Occupation	3,373.5
Property	2,241.2
Motor Vehicle Excise	780.1
Use	547.4
Real Estate Excise	474.8
Public Utility	389.8
All Other	1,137.2
* 1995-97 Forecast	\$17,559.8

* 1995-97 General Fund-State Revenues are comprised of: the June 1995 Forecast, \$17,802 million; 1995 Tax Reduction Legislation, (\$228.7) million; 1995 Budget Driven Revenue, \$26.3 million; and 1995 Other Revenue Legislation, (\$39.8) million.

Washington State General Fund State Revenues By Source

Dollars in Millions

June 1995 Forecast*

	1985-87	1987-89	1989-91	1991-93	1993-95	1995-97
Retail Sales	\$4,490.5	\$5,152.8	\$6,446.3	\$7,163.0	\$8,034.6	\$8,615.8
Business & Occupation	1,482.5	1,894.3	2,217.7	2,503.5	3,056.8	3,373.5
Property	1,109.5	1,233.7	1,399.4	1,661.8	1,958.1	2,241.2
Motor Vehicle Excise	497.3	586.2	665.9	687.9	789.7	780.1
Use	357.8	372.6	481.9	515.1	559.9	547.4
Real Estate Excise	221.0	280.9	436.8	399.0	494.3	474.8
Public Utility	266.5	244.9	244.0	292.9	345.2	389.8
All Other	1,006.7	1,029.7	1,080.1	1,441.6	1,331.0	1,137.2
Total	\$9,431.8	\$10,795.1	\$12,972.1	\$14,664.8	\$16,569.6	\$17,559.8

Percent of Total

Retail Sales	47.6%	47.7%	49.7%	48.8%	48.5%	49.1%
Business & Occupation	15.7%	17.5%	17.1%	17.1%	18.4%	19.2%
Property	11.8%	11.4%	10.8%	11.3%	11.8%	12.8%
Motor Vehicle Excise	5.3%	5.4%	5.1%	4.7%	4.8%	4.4%
Use	3.8%	3.5%	3.7%	3.5%	3.4%	3.1%
Real Estate Excise	2.3%	2.6%	3.4%	2.7%	3.0%	2.7%
Public Utility	2.8%	2.3%	1.9%	2.0%	2.1%	2.2%
All Other	10.7%	9.5%	8.3%	9.8%	8.0%	6.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Percent Change From Prior Biennium

Retail Sales	19.3%	14.7%	25.1%	11.1%	24.6%	20.3%
Business & Occupation	16.9%	27.8%	17.1%	12.9%	37.8%	34.8%
Property	15.7%	11.2%	13.4%	18.8%	39.9%	34.9%
Motor Vehicle Excise	30.0%	17.9%	13.6%	3.3%	18.6%	13.4%
Use	13.7%	4.1%	29.3%	6.9%	16.2%	6.3%
Real Estate Excise	22.1%	27.1%	55.5%	-8.7%	13.2%	19.0%
Public Utility	8.5%	-8.1%	-0.4%	20.0%	41.5%	33.1%
All Other	3.9%	2.3%	4.9%	33.5%	23.2%	-21.1%
Total	16.7%	14.5%	20.2%	13.0%	27.7%	19.7%

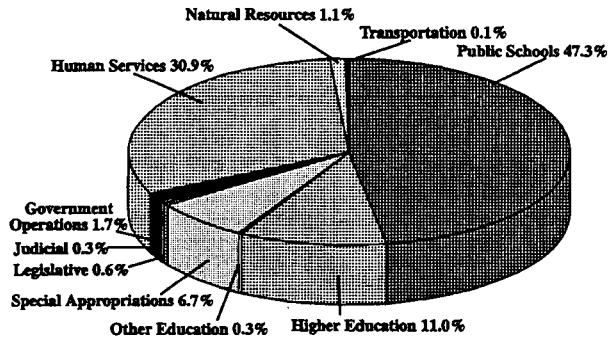
* Updated for 1995 Legislative Session; reflects Governor's Vetoes.

Washington State 1995-97 Operating Budget

(Dollars in Thousands)

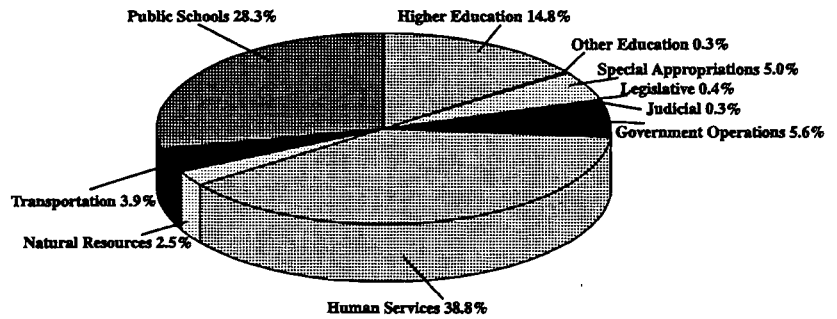
General Fund - State

Legislative	104,873
Judicial	54,345
Governmental Operations	299,904
Human Services	5,438,126
Natural Resources	201,526
Transportation	23,567
Public Schools	8,321,767
Higher Education	1,934,655
Other Education	45,928
Special Appropriations	<u>1,174,758</u>
Statewide Total	17,599,449



Total Budgeted Funds

Legislative	111,881
Judicial	102,194
Governmental Operations	1,789,938
Human Services	12,394,493
Natural Resources	808,962
Transportation	1,258,852
Public Schools	9,037,361
Higher Education	4,713,506
Other Education	88,662
Special Appropriations	<u>1,600,914</u>
Statewide Total	31,906,763



Washington State Operating Budget Comparisons

Washington State Operating Budget Comparisons 1993-95 Appropriations vs. 1995-97 Legislative Budget

TOTAL STATE

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Legislative	101,321	104,873	3,552	108,358	111,881	3,523
Judicial	55,393	54,345	(1,048)	103,399	102,194	(1,205)
Governmental Operations	337,508	299,938	(37,570)	1,824,175	1,789,938	(34,237)
Department of Social & Health Services	4,009,837	4,561,196	551,359	9,062,678	9,993,864	931,186
Other Human Services	818,446	876,930	58,484	2,015,537	2,400,629	385,092
Natural Resources	287,865	201,526	(86,339)	921,359	808,962	(112,397)
Transportation	18,065	23,567	5,502	1,340,244	1,258,852	(81,392)
Total Education	9,661,302	10,302,350	641,048	12,822,097	13,839,529	1,017,432
Public Schools	7,736,191	8,321,767	585,576	8,392,241	9,037,361	645,120
Higher Education	1,880,096	1,934,655	54,559	4,343,116	4,713,506	370,390
Other Education	45,015	45,928	913	86,740	88,662	1,922
Special Appropriations	914,627	1,174,758	260,131	1,348,498	1,600,914	252,416
STATEWIDE TOTAL	16,204,364	17,599,483	1,395,119	29,546,345	31,906,763	2,360,418

Washington State Operating Budget Comparisons

LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
House of Representatives	45,515	47,547	2,032	45,515	47,547	2,032
Senate	34,998	36,595	1,597	34,998	36,595	1,597
Legislative Budget Committee	2,426	2,825	399	2,991	2,825	(166)
Legislative Transportation Committee	0	0	0	2,591	2,528	(63)
WA Performance Partnership Council	500	250	(250)	500	250	(250)
LEAP Committee	2,477	2,324	(153)	2,887	2,529	(358)
State Actuary	0	0	0	1,649	1,573	(76)
Joint Legislative Systems Committee	9,572	8,900	(672)	9,572	8,940	(632)
Statute Law Committee	5,833	6,432	599	7,655	9,094	1,439
<i>Total Legislative</i>	101,321	104,873	3,552	108,358	111,881	3,523
Supreme Court	9,586	8,875	(711)	9,586	8,875	(711)
State Law Library	3,193	3,215	22	3,193	3,215	22
Court of Appeals	17,484	17,668	184	17,484	17,668	184
Commission on Judicial Conduct	1,101	1,201	100	1,101	1,201	100
Administrator for the Courts	24,029	23,386	(643)	72,035	71,235	(800)
<i>Total Judicial</i>	55,393	54,345	(1,048)	103,399	102,194	(1,205)
<i>TOTAL LEGISLATIVE AND JUDICIAL</i>	156,714	159,218	2,504	211,757	214,075	2,318

Washington State Operating Budget Comparisons

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Office of the Governor	6,015	5,797	(218)	6,015	5,797	(218)
Office of the Lieutenant Governor	484	485	1	484	485	1
Public Disclosure Commission	2,189	2,152	(37)	2,189	2,153	(36)
Office of the Secretary of State	10,931	15,099	4,168	15,525	20,854	5,329
Governor's Office of Indian Affairs	300	303	3	300	303	3
Comm on Asian Pacific American Affairs	338	346	8	338	346	8
Office of the State Treasurer	4,990	0	(4,990)	14,810	10,498	(4,312)
Office of the State Auditor	20	22	2	36,734	36,722	(12)
Comm on Salaries for Elected Officials	66	65	(1)	66	65	(1)
Office of the Attorney General	6,005	6,453	448	113,409	131,305	17,896
Department of Financial Institutions	0	0	0	10,212	13,434	3,222
Dept Community, Trade, & Econ Devel	134,719	95,955	(38,764)	376,159	278,822	(97,337)
Economic & Revenue Forecast Council	818	820	2	818	820	2
Office of Financial Management	19,522	18,620	(902)	34,945	41,968	7,023
Office of Administrative Hearings	0	0	0	12,535	14,532	1,997
Department of Personnel	0	720	720	29,845	29,820	(25)
Deferred Compensation Committee	0	0	0	3,068	1,614	(1,454)
State Lottery Commission	0	0	0	477,753	465,718	(12,035)
Washington State Gambling Commission	0	0	0	14,263	16,727	2,464
Commission on Hispanic Affairs	375	390	15	375	390	15
Gov Comm on African-American Affairs	273	294	21	273	294	21
Personnel Appeals Board	0	0	0	1,438	1,593	155
Department of Retirement Systems	0	0	0	31,840	31,827	(13)
State Investment Board	0	0	0	7,233	8,068	835
Department of Revenue	124,099	125,667	1,568	130,850	133,786	2,936
Board of Tax Appeals	1,340	1,989	649	1,340	1,989	649
Municipal Research Council	2,944	3,230	286	2,944	3,230	286
Uniform Legislation Commission	55	0	(55)	55	0	(55)
Minority & Women's Business Enterprises	0	0	0	2,098	2,121	23
Department of General Administration	387	567	180	100,591	94,207	(6,384)
Department of Information Services	400	0	(400)	180,657	180,414	(243)

Washington State Operating Budget Comparisons

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Office of Insurance Commissioner	0	0	0	18,405	20,230	1,825
State Board of Accountancy	0	0	0	1,272	1,293	21
Death Investigation Council	0	0	0	14	12	(2)
Washington Horse Racing Commission	0	0	0	4,778	4,733	(45)
Liquor Control Board	0	0	0	110,789	113,461	2,672
Utilities & Transportation Commission	0	0	0	29,013	26,224	(2,789)
Board for Volunteer Firefighters	0	0	0	398	442	44
Military Department	14,922	14,951	29	23,777	62,056	38,279
Public Employment Relations Comm	3,348	3,314	(34)	3,348	3,314	(34)
Growth Management Hearings Board	2,968	2,665	(303)	2,968	2,665	(303)
State Convention & Trade Center	0	0	0	20,251	25,606	5,355
TOTAL GOVERNMENTAL OPERATIONS	337,508	299,904	(37,604)	1,824,175	1,789,938	(34,237)

Washington State Operating Budget Comparisons

HUMAN SERVICES

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
<i>Department of Social & Health Services</i>	4,009,837	4,561,196	551,359	9,062,678	9,993,864	931,186
Health Care Authority	6,810	6,806	(4)	131,178	327,717	196,539
Human Rights Commission	3,739	3,817	78	5,150	5,563	413
Board of Industrial Insurance Appeals	0	0	0	20,000	19,633	(367)
Criminal Justice Training Commission	0	0	0	11,036	11,036	0
Department of Labor & Industries	9,487	10,581	1,094	375,707	360,069	(15,638)
Indeterminate Sentence Review Board	2,591	2,285	(306)	2,591	2,285	(306)
Health Services Commission	180	0	(180)	4,233	0	(4,233)
Department of Health	89,662	88,627	(1,035)	374,629	437,905	63,276
Department of Veterans' Affairs	22,920	20,453	(2,467)	49,843	50,358	515
Department of Corrections	677,747	740,118	62,371	680,544	745,366	64,822
Department of Services for the Blind	2,587	2,589	2	12,869	14,178	1,309
Sentencing Guidelines Commission	723	986	263	723	986	263
Department of Employment Security	2,000	668	(1,332)	347,034	421,194	74,160
WA Health Care Policy Board	0	0	0	0	4,339	4,339
<i>Total Other Human Services</i>	818,446	876,930	58,484	2,015,537	2,400,629	385,092
TOTAL HUMAN SERVICES	4,828,283	5,438,126	609,843	11,078,215	12,394,493	1,316,278

Washington State Operating Budget Comparisons

-DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Children & Family Services	283,479	296,370	12,891	504,425	566,332	61,907
Juvenile Rehabilitation	140,900	107,581	(33,319)	149,075	170,790	21,715
Mental Health	392,802	456,545	63,743	735,623	889,964	154,341
Developmental Disabilities	340,965	370,377	29,412	647,351	698,063	50,712
Long-Term Care Services	632,353	772,463	140,110	1,362,640	1,575,598	212,958
Economic Services	934,106	1,032,657	98,551	1,814,583	1,912,686	98,103
Alcohol & Substance Abuse	14,317	16,935	2,618	149,657	166,204	16,547
Medical Assistance Payments	1,132,964	1,362,807	229,843	3,274,908	3,565,908	291,000
Vocational Rehabilitation	15,681	15,587	(94)	86,045	91,671	5,626
Administration & Supporting Services	45,744	51,867	6,123	83,916	93,640	9,724
Child Support Services	45,300	36,227	(9,073)	211,326	204,947	(6,379)
Payments to Other Agencies	31,226	41,780	10,554	43,129	58,061	14,932
TOTAL DSHS	4,009,837	4,561,196	551,359	9,062,678	9,993,864	931,186

Washington State Operating Budget Comparisons

NATURAL RESOURCES

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
State Energy Office	1,488	508	(980)	46,393	18,543	(27,850)
Columbia River Gorge Commission	563	577	14	1,094	1,101	7
Department of Ecology	53,557	42,764	(10,793)	251,257	225,920	(25,337)
WA Pollution Liability Insurance Pgm	0	0	0	903	1,342	439
State Parks & Recreation Commission	73,938	35,897	(38,041)	81,809	66,253	(15,556)
Interagency Comm Outdoor Recreation	0	0	0	2,616	3,219	603
Environmental Hearings Office	1,361	1,428	67	1,361	1,428	67
State Conservation Commission	1,661	1,662	1	1,863	1,864	1
Puget Sound Water Quality Authority	2,996	0	(2,996)	4,121	0	(4,121)
Office of Marine Safety	0	0	0	4,274	1,078	(3,196)
Department of Fisheries & Wildlife	66,254	64,719	(1,535)	209,494	196,937	(12,557)
Department of Natural Resources	71,194	40,599	(30,595)	247,699	220,454	(27,245)
Department of Agriculture	14,853	13,372	(1,481)	68,475	70,823	2,348
TOTAL NATURAL RESOURCES	287,865	201,526	(86,339)	921,359	808,962	(112,397)

Washington State Operating Budget Comparisons

TRANSPORTATION

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Board of Pilotage Commissioners	0	0	0	218	260	42
Washington State Patrol	10,625	15,081	4,456	235,896	244,002	8,106
WA Traffic Safety Commission	0	0	0	3,357	6,688	3,331
Department of Licensing	7,440	8,486	1,046	179,161	175,025	(4,136)
Department of Transportation	0	0	0	919,101	831,855	(87,246)
Marine Employees' Commission	0	0	0	373	345	(28)
Transportation Commission	0	0	0	1,604	677	(927)
Air Transportation Commission	0	0	0	534	0	(534)
TOTAL TRANSPORTATION	18,065	23,567	5,502	1,340,244	1,258,852	(81,392)

Washington State Operating Budget Comparisons

EDUCATION

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Public Schools	7,736,191	8,321,767	585,576	8,392,241	9,037,361	645,120
Higher Education Coordinating Board	133,926	146,769	12,843	143,698	153,691	9,993
University of Washington	502,775	522,302	19,527	2,023,221	2,217,812	194,591
Washington State University	291,271	304,446	13,175	600,489	657,520	57,031
Eastern Washington University	72,870	73,825	955	126,133	141,009	14,876
Central Washington University	66,147	67,738	1,591	114,064	121,108	7,044
The Evergreen State College	37,285	36,940	(345)	60,167	64,849	4,682
Joint Center for Higher Education	917	2,438	1,521	1,157	9,563	8,406
Western Washington University	81,163	85,706	4,543	153,014	160,383	7,369
Community & Technical Colleges	693,742	694,491	749	1,121,173	1,187,571	66,398
Total Higher Education	1,880,096	1,934,655	54,559	4,343,116	4,713,506	370,390
Compact for Education	119	0	(119)	119	0	(119)
State School for the Blind	6,855	6,861	6	6,888	6,868	(20)
State School for the Deaf	12,670	12,397	(273)	12,719	12,412	(307)
Work Force Training & Education Board	3,447	3,268	(179)	38,596	38,405	(191)
State Library	14,412	14,140	(272)	19,254	18,992	(262)
Washington State Arts Commission	4,296	4,165	(131)	5,230	5,100	(130)
Washington State Historical Society	2,325	4,151	1,826	2,967	5,939	2,972
Eastern WA State Historical Society	891	946	55	967	946	(21)
Total Other Education	45,015	45,928	913	86,740	88,662	1,922
TOTAL EDUCATION	9,661,302	10,302,350	641,048	12,822,097	13,839,529	1,017,432

Washington State Operating Budget Comparisons

PUBLIC SCHOOLS

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
OSPI & Statewide Programs	35,848	36,160	312	73,635	80,966	7,331
General Apportionment	5,986,385	6,459,744	473,359	5,986,385	6,459,744	473,359
Pupil Transportation	337,975	320,481	(17,494)	337,975	320,481	(17,494)
School Food Services	6,000	6,000	0	250,886	265,606	14,720
Special Education	878,103	753,468	(124,635)	976,787	852,152	(124,635)
Traffic Safety Education	0	0	0	16,979	17,488	509
Educational Service Districts	10,016	8,821	(1,195)	10,016	8,821	(1,195)
Levy Equalization	149,596	155,000	5,404	149,596	155,000	5,404
Elementary & Secondary School Improve	0	0	0	197,580	222,376	24,796
Indian Education	0	0	0	370	370	0
Institutional Education	27,639	31,212	3,573	36,187	39,760	3,573
Education of Highly Capable Students	8,889	8,531	(358)	8,889	8,531	(358)
Education Reform	75,861	35,966	(39,895)	75,861	48,466	(27,395)
Federal Encumbrances	0	0	0	51,216	51,216	0
Transitional Bilingual Instruction	46,450	56,852	10,402	46,450	56,852	10,402
Learning Assistance Program (LAP)	107,377	114,100	6,723	107,377	114,100	6,723
Block Grants	47,311	115,555	68,244	47,311	115,555	68,244
Compensation Adjustments	3,491	219,877	216,386	3,491	219,877	216,386
Common School Construction	15,250	0	(15,250)	15,250	0	(15,250)
TOTAL PUBLIC SCHOOLS	7,736,191	8,321,767	585,576	8,392,241	9,037,361	645,120

Washington State Operating Budget Comparisons

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	General Fund – State			Total All Funds		
	1993-95	1995-97	Difference	1993-95	1995-97	Difference
Bond Retirement & Interest	736,358	890,847	154,489	1,165,564	1,206,006	40,442
Special Appropriations to the Governor	10,960	7,261	(3,699)	25,320	13,017	(12,303)
Belated Claims	0		0	971		(971)
Sundry Claims	2,696	0	(2,696)	2,841	0	(2,841)
State Employee Compensation Adjust	(9,916)	87,050	96,966	(20,727)	192,291	213,018
Agency Loans	4,550	0	(4,550)	4,550	0	(4,550)
Contributions to Retirement Systems	169,979	189,600	19,621	169,979	189,600	19,621
TOTAL SPECIAL APPROPRIATIONS	914,627	1,174,758	260,131	1,348,498	1,600,914	252,416

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
GOVERNMENTAL OPERATIONS			
Court of Appeals			
Division III: Vault Enlargement	\$80,000	\$0	\$0
Division III: Paint Exterior of Building	\$5,000	\$0	\$0
Agency Total	\$85,000	\$0	\$0
Office of the Secretary of State			
Puget Sound Archives - Design and Constr	\$6,700,125	\$6,700,125	\$6,700,125
Puget Sound - Bldg. "C" Asbestos & Demo	\$125,000	\$125,000	\$125,000
Agency Total	\$6,825,125	\$6,825,125	\$6,825,125
Dept of Community, Trade, & Economic Development			
Replace Emergency Coordination Center	\$12,727,375	\$0	\$0
Fire Training Academy: Preservation	\$1,500,000	\$0	\$0
Housing Assistance Program	\$52,000,000	\$50,000,000	\$47,800,000
Community Economic Revitalization	\$5,500,000	\$5,500,000	\$0
Development Loan Fund	\$4,500,000	\$3,500,000	\$0
Fire Training Acad Portable Building	\$99,410	\$0	\$0
Sand Point Studies	\$50,000	\$0	\$0
Public Works Trust Fund Loans	\$128,900,000	\$148,900,000	\$0
Community Action Agencies	\$0	\$4,000,000	\$4,000,000
Building for the Arts	\$3,410,097	\$3,000,000	\$3,000,000
Pacific Science Center	\$0	\$4,000,000	\$4,000,000
Agency Total	\$208,686,882	\$218,900,000	\$58,800,000
Office of Financial Management			
Americans with Disabilities Act: Pool	\$9,000,000	\$6,000,000	\$6,000,000
Asbestos Abatement: Pool	\$5,000,000	\$3,000,000	\$3,000,000
Capital Budget System Improvements	\$300,000	\$300,000	\$300,000
Seismic Retrofit: Pool	\$5,000,000	\$1,000,000	\$0
Underground Storage Tank: Pool	\$5,000,000	\$3,000,000	\$3,000,000
Agency Total	\$24,300,000	\$13,300,000	\$12,300,000
Department of General Administration			
Archives Building HVAC: Repairs	\$1,700,000	\$1,700,000	\$0
CFC/Halon Systems: Remove & Replace	\$500,000	\$500,000	\$500,000
Capitol Campus Controls Systems Phase 4	\$868,000	\$868,000	\$0
Criminal Justice Ctr: Preserv	\$620,000	\$620,000	\$620,000
Electrical Improvements	\$500,000	\$0	\$0
Elevator and Escalator: Preservation	\$843,000	\$0	\$0
Emergency and Small Repairs	\$1,000,000	\$0	\$0

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
Legislative Building: Preservation	\$1,500,000	\$0	\$0
Monumental Buildings: Preservation	\$2,700,000	\$1,700,000	\$0
OB-2 Building: Preservation	\$600,000	\$0	\$0
Roof Repairs and Replacement	\$775,000	\$775,000	\$0
State Library: Preservation	\$800,000	\$800,000	\$0
Thurston County Buildings: Preservation	\$2,140,000	\$6,985,000	\$518,800
Thurston County Infrastructure: Preservation	\$1,680,000	\$0	\$0
Plaza/DOT Garage Renovation	\$11,821,200	\$9,321,200	\$8,921,200
General Administration Building: Preserv	\$1,950,000	\$2,200,000	\$0
Northern State Service Center: Preserv	\$0	\$577,000	\$577,000
Thurston County: Predesigns	\$600,000	\$0	\$0
Criminal Justice Ctr: Dvlp	\$2,912,000	\$2,912,000	\$2,912,000
Engineer & Architect Svcs: Project Mgmt	\$7,500,00	\$7,500,000	\$7,500,000
Buildings and Infrastructure Savings	\$1	\$0	\$0
Heritage Park: New development	\$1,035,000	\$1,035,000	\$1,035,000
Agency Total	\$42,044,201	\$37,493,200	\$22,584,000
Department of Information Services			
Campus Transport System: Phase I	\$3,450,000	\$3,450,000	\$0
WIN Kiosks	\$0	\$1,300,000	\$0
Agency Total	\$3,450,000	\$4,750,000	\$0
Washington Horse Racing Commission			
Horse Racing Commission	\$168,065	\$168,065	\$0
Agency Total	\$168,065	\$168,065	\$0
Washington State Liquor Control Board			
New Distribution Ctr: Predesign	\$150,000	\$100,000	\$0
Agency Total	\$150,000	\$100,000	\$0
Military Department			
Yakima Armory: Replacement	\$0	\$155,000	\$0
Minor Works: Federal Construction Projects	\$4,303,000	\$4,303,000	\$448,000
Camp Murray Buildings: Preservation	\$1,050,000	\$1,050,000	\$0
Everett Armory: Preservation	\$700,000	\$500,000	\$0
Camp Murray Infrastructure: Preservation	\$500,000	\$500,000	\$0
Buildings and Infrastructure Savings	\$0	\$1	\$1
Emergency Coordination Center	\$0	\$9,066,000	\$0
Agency Total	\$6,553,000	\$15,574,001	\$448,001
Total Governmental Operations	\$292,262,273	\$297,110,391	\$100,957,126

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
HUMAN SERVICES			
Department of Social and Health Services			
Emergency Projects	\$250,000	\$250,000	\$0
Minor Capital Renewal	\$15,100,000	\$15,100,000	\$9,700,000
Asbestos Abatement	\$755,000	\$755,000	\$755,000
Underground Storage Tanks	\$200,000	\$200,000	\$0
Chloro-Fluoro-Carbon Abatement	\$150,000	\$150,000	\$0
Agency Capital Project Management	\$1,237,496	\$1,237,496	\$0
Conservation: Fircrest Heating Study	\$132,000	\$132,000	\$0
Maintenance Management & Planning	\$125,000	\$125,000	\$0
Minor Projects - Mental Health	\$1,950,000	\$1,950,000	\$1,950,000
Minor Projects: Dvlp Disabilities	\$539,000	\$539,000	\$539,000
Northern State Douglas Bldg: Mech HVAC	\$170,000	\$0	\$0
Medical Lake Wastewater Facility	\$1,264,000	\$1,264,000	\$1,264,000
WSH - Ward Renovation Phase 6	\$819,000	\$819,000	\$819,000
WSH - Ward Renovation Phase 7	\$1,493,518	\$0	\$0
WSH: Replace Boiler #1	\$1,440,000	\$1,440,000	\$1,440,000
JRA 300 Bed Inst: Site, EIS, Predesign	\$534,061	\$200,000	\$200,000
Echo Glen Beds and Infrastructure	\$6,484,300	\$6,484,300	\$6,484,300
Green Hill Redevelopment	\$38,776,500	\$34,374,536	\$34,374,536
Indian Ridge Utility Upgrade Projects	\$1,521,500	\$1,521,500	\$1,521,500
Maple Lane School & Infrastructure	\$5,855,500	\$5,855,500	\$5,855,500
Minor Works: State JRA Group Homes	\$550,500	\$344,400	\$344,400
Mission Creek Preservation Projects	\$414,800	\$414,800	\$414,800
Naselle Youth Camp Sewer & Infrastructure	\$2,125,500	\$2,125,500	\$2,125,500
State JRA Group Homes: Glacier Building	\$593,800	\$0	\$0
Building & Infrastructure savings	\$0	\$1	\$1
Crisis Residential Centers	\$0	\$3,000,000	\$3,000,000
Agency Total	\$82,481,475	\$78,282,033	\$70,787,537
Department of Health			
Health Laboratory: Repair and Improve	\$863,992	\$863,992	\$863,992
Emergency Power System	\$596,790	\$596,790	\$0
Agency Total	\$1,460,782	\$1,460,782	\$863,992
Department of Veterans' Affairs			
Main Kitchen Upgrade, WSH	\$1,096,000	\$1,096,000	\$0
Roof Repair and Replacement, WVH	\$402,000	\$402,000	\$0
Mech/Elec/HVAC Improvements, WVH	\$360,000	\$360,000	\$0
Automatic Doors, WSH	\$142,000	\$511,000	\$0
Mech/Elec/HVAC Projects, WSH	\$604,000	\$235,000	\$0
OT/PT Room Addition - Bldg. 10, WVH	\$110,000	\$110,000	\$0
Replace Failing Sewer Line, WSH	\$100,000	\$100,000	\$0

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
Roof Maintenance and Demolition, WSH	\$120,000	\$120,000	\$0
Emergency Projects	\$400,000	\$150,000	\$0
Agency Total	\$3,334,000	\$3,084,000	\$0
Department of Corrections			
Emergency Projects	\$1,802,750	\$1,802,750	\$200,000
Statewide Preservation Projects	\$19,385,850	\$14,879,313	\$14,879,313
WSP Steam System Replacement	\$4,411,252	\$4,411,252	\$4,411,252
UST/AST Program	\$794,729	\$794,729	\$794,729
WCCW: Replace "G" Units with 256 Bed	\$8,317,839	\$8,317,839	\$8,317,839
400 Bed Minimum Facility for WSR	\$18,733,120	\$18,733,120	\$18,733,120
AHCC 512-Bed Expansion	\$17,155,382	\$17,155,382	\$17,155,382
Convert Medium to Close Custody WSR	\$3,236,266	\$0	\$0
Design/Acquisition 1936 Multi-Custody Fac	\$19,263,733	\$19,263,733	\$19,263,733
Yakima Pre-Release: Design/Construct	\$7,527,900	\$7,527,900	\$7,527,900
Expand Larch and Cedar Creek to 400 Bed	\$24,000,000	\$22,000,000	\$22,000,000
Special Offenders Unit: Predesign	\$427,400	\$427,400	\$427,400
Statewide Program Projects	\$15,804,353	\$8,074,963	\$8,074,963
Agency Total	\$140,860,574	\$123,388,381	\$121,785,631
Total Human Services	\$228,136,831	\$206,215,196	\$193,437,160
NATURAL RESOURCES			
Department of Ecology			
Water Policy: Implement Regional Plans	\$15,000,000	\$0	\$0
Water Pollution Control Revolving Account	\$90,699,845	\$79,265,272	\$0
Referendum 38 Water Supply Facilities	\$1,000,000	\$1,000,000	\$1,000,000
Referendum 39 Waste Disposal Facilities	\$638,273	\$638,273	\$0
Centennial Clean Water Fund	\$65,506,434	\$57,478,000	\$0
Local Toxics Control Account	\$42,467,860	\$42,467,860	\$0
Agency Total	\$215,312,412	\$180,849,405	\$1,000,000
State Parks and Recreation Commission			
Emergency Projects	\$500,000	\$500,000	\$500,000
Underground Storage Tanks: Phase 3	\$600,000	\$600,000	\$600,000
Park Preservation Projects: General	\$4,516,300	\$2,500,000	\$2,500,000
Park Preservation Projects: Buildings	\$2,048,200	\$1,500,000	\$1,500,000
Park Preservation Projects: Utilities	\$2,604,000	\$2,000,000	\$2,000,000
State Park Roadway Preservation	\$2,136,600	\$0	\$0
State Park Program Projects	\$1,730,400	\$1,880,400	\$1,880,400
Deception Pass State Park: Sewer Dev.	\$0	\$2,229,000	\$2,229,000
Boating Facility Preservation	\$700,000	\$700,000	\$0
Agency Total	\$14,835,500	\$11,909,400	\$11,209,400

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
Interagency Committee for Outdoor Recreation			
Boating Facilities (I-215)	\$7,500,000	\$7,500,000	\$0
Non-highway & Off-Road Veh. Activities (NOVA)	\$5,120,000	\$5,120,000	\$0
Washington Wildlife & Recreation Program	\$70,000,000	\$45,000,000	\$43,600,000
Firearms Range Program	\$900,000	\$900,000	\$0
Land and Water Conservation Fund	\$1,050,000	\$1,050,000	\$0
Agency Total	\$84,570,000	\$59,570,000	\$43,600,000
State Conservation Commission			
Water Quality Account Projects	\$2,498,000	\$5,500,000	\$0
Agency Total	\$2,498,000	\$5,500,000	\$0
Department of Fisheries and Wildlife			
Minor Works: Preservation	\$2,300,000	\$2,000,000	\$0
Underground Storage Tanks	\$200,000	\$200,000	\$200,000
Emergency Repair	\$650,000	\$650,000	\$650,000
Facilities Renovation	\$1,000,000	\$1,000,000	\$1,000,000
Hatchery Renovation	\$4,900,000	\$3,200,000	\$3,200,000
Nemah Hatch. Bldg & Incub. Sys. Replacement	\$0	\$1,700,000	\$0
Recreational Access Redevelopment	\$750,000	\$750,000	\$250,000
Shellfish Laboratory/Hatchery Upgrades	\$300,000	\$300,000	\$300,000
Wildlife Area Renovation	\$1,025,000	\$675,000	\$0
Issaquah Hatchery Utilzn Study & Improvmts	\$1,150,000	\$1,150,000	\$650,000
Coast/Puget Salmon Enh. & Wildstock Restor. Hab	\$5,245,000	\$5,245,000	\$3,645,000
Coast & Pug. S. Wildstock Restrtn - Hatchery	\$1,500,000	\$1,500,000	\$800,000
Fish Protection Facilities	\$2,275,000	\$2,275,000	\$0
Game Farm Renovation	\$700,000	\$700,000	\$0
Spokane Satellite Office Fac. Construction	\$1,750,000	\$0	\$0
Minter Creek Hatchery Phase 2	\$800,000	\$800,000	\$800,000
Statewide Fencing Renovation & Constr.	\$1,350,000	\$575,000	\$575,000
Clam & Oyster Beach Enhancement	\$900,000	\$500,000	\$0
Habitat Restoration	\$1,350,000	\$0	\$0
Migratory Waterfowl Hab./Acq. & Devmt	\$500,000	\$500,000	\$0
Mitigation Projects	\$11,050,000	\$11,050,000	\$0
Recreational Fish Enhancement	\$1,000,000	\$1,000,000	\$0
Agency Total	\$40,695,000	\$35,770,000	\$12,070,000
Department of Natural Resources			
Emergency Repairs - Recreation Sites	\$120,000	\$120,000	\$120,000
Recreation Health and Safety	\$300,000	\$300,000	\$300,000
Natural Area Preserve & NRCA Mgmt	\$350,000	\$350,000	\$350,000
Emergency Repairs	\$278,100	\$278,100	\$30,000
Minor Works: Preservation	\$1,026,300	\$1,026,300	\$250,000

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
Small Repairs and Improvement	\$69,000	\$69,000	\$0
Hazardous Waste Cleanup	\$300,000	\$300,000	\$0
Irrigation Repairs and Replacements	\$235,000	\$235,000	\$0
Repair, Maint., and Tenant Improvements	\$600,000	\$600,000	\$0
Communication Site Repair	\$50,000	\$50,000	\$0
Road and Bridge Construction	\$920,200	\$920,200	\$0
Region Administrative Facilities Expansion	\$1,085,072	\$1,085,072	\$0
Minor Works: Program	\$1,027,700	\$827,700	\$100,000
Land Bank	\$15,000,000	\$15,000,000	\$0
Right of Way Acquisition	\$1,000,000	\$1,000,000	\$0
Irrigation Development	\$400,000	\$400,000	\$0
Communication Site Construction - Various	\$460,000	\$460,000	\$0
Commercial Development: LID	\$470,000	\$470,000	\$0
Aquatic Lands Enhancement Grants	\$2,400,000	\$4,500,000	\$0
Nat. Res. Real Property Replacement Acct.	\$25,000,000	\$25,000,000	\$0
Agency Total	\$51,091,372	\$52,991,372	\$1,150,000
Total Natural Resources	\$409,002,284	\$346,590,177	\$69,029,400
TRANSPORTATION			
Washington State Patrol			
Predesign Spokane Crime Laboratory	\$80,000	\$80,000	\$80,000
Fire Training Academy Portable Building Improvements	\$0	\$99,410	\$99,410
Fire Training Academy: Preservation	\$0	\$1,500,000	\$1,500,000
Agency Total	\$80,000	\$1,679,410	\$1,679,410
Total Transportation	\$80,000	\$1,679,410	\$1,679,410
EDUCATION			
State Board of Education			
Public School Building Construction	\$255,639,000	\$365,600,000	\$100,000,000
Clover Park Transportation Facility	\$0	\$300,000	\$300,000
Agency Total	\$255,639,000	\$365,900,000	\$100,300,000
Public Schools			
School Facilities Staff	\$1,361,000	\$3,000,000	\$0
Agency Total	\$1,361,000	\$3,000,000	\$0
State School for the Blind			
Old Main: Seismic Stabilization	\$850,000	\$850,000	\$850,000
Minor Works: Preservation	\$400,000	\$400,000	\$400,000
Agency Total	\$1,250,000	\$1,250,000	\$1,250,000

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
State School for the Deaf			
MacDonald & Deer Halls: Elevators	\$550,000	\$550,000	\$550,000
Minor Works: Preservation	\$570,000	\$570,000	\$570,000
Agency Total	\$1,120,000	\$1,120,000	\$1,120,000
University of Washington			
Bothell Collocated Campus - Phase I	\$2,500,000	\$2,500,000	\$2,500,000
Tacoma Branch Campus	\$220,000	\$5,700,000	\$5,700,000
Minor Safety Repairs: Preservation	\$4,000,000	\$3,700,000	\$3,700,000
Minor Works: Building Renewal	\$11,375,000	\$9,047,000	\$2,000,000
Minor Repairs: Program Renewal	\$3,700,000	\$0	\$0
Minor Works: Utility Infrastructure	\$6,300,000	\$5,900,000	\$5,900,000
SW Campus Utilities I: Design & Constr	\$9,309,500	\$9,309,500	\$9,023,900
Ocean & Fisheries Sci II & III: Design & Site	\$7,480,175	\$7,480,175	\$5,932,025
Health Ctr: BB Elevators Design/Constr	\$5,192,600	\$5,192,600	\$4,981,900
Suzzallo Library Renovate: Phase I Design	\$2,859,875	\$2,859,875	\$2,142,275
Nuclear Reactor: Decommission & Remodel	\$3,794,400	\$0	\$0
Social Work 3rd Floor Add: Design & Const	\$2,915,600	\$2,915,600	\$2,789,200
West Electrical Power Station	\$6,804,000	\$6,804,000	\$6,600,000
Law School Building	\$0	\$1,140,000	\$0
HSC D-Wing Student Lab: Design & Constr	\$3,017,100	\$3,017,100	\$2,905,000
Harborview Medical Center Building	\$0	\$19,000,000	\$9,000,000
Power Plant Boiler #7: Design & Construct	\$9,912,000	\$9,912,000	\$9,623,297
Health Ctr Lobby: ADA Improv	\$1,300,000	\$1,300,000	\$1,300,000
Agency Total	\$80,680,250	\$95,777,850	\$74,097,597
Washington State University			
Minor Works: Safety Projects	\$3,000,000	\$2,600,000	\$1,600,000
Minor Works: Program	\$6,000,000	\$5,150,000	\$0
Minor Works: Preservation	\$6,000,000	\$6,152,000	\$5,900,000
Engineer Teaching/Research Lab: Const	\$25,140,300	\$25,140,300	\$17,140,300
Animal Science Lab Bldg: Design & Constr	\$6,587,300	\$6,587,300	\$6,332,300
Bohler Gym Addition: Design & Constr	\$9,360,200	\$9,360,200	\$8,960,400
Kimbrough Hall Addition and Remodeling	\$1,204,125	\$1,204,125	\$965,700
Plant Growth - Wheat Research Cntr: Const	\$7,847,200	\$8,000,000	\$4,000,000
Bohler Gym Renovation: Design	\$1,888,100	\$1,888,100	\$1,496,600
Chem Waste Collection: Design & Const	\$1,000,000	\$1,000,000	\$0
Communication Infrastructure Renewal	\$4,159,625	\$4,159,625	\$0
Hazardous Waste Facilities	\$1,500,000	\$1,500,000	\$0
WSU Vancouver- Phase II Construction & Phase III Design	\$0	\$9,066,000	\$9,066,000
ICNE-Spokane/Yakima/Wenatchee WHETS	\$1,500,000	\$1,500,000	\$0
WSU Tri-Cities: Consolidated Info Center	\$0	\$9,709,000	\$9,709,000
Agency Total	\$75,186,850	\$93,016,650	\$65,170,300

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
Eastern Washington University			
JFK Library Addition/Remodel: Construction	\$19,844,304	\$19,844,304	\$19,692,130
Chillers, Heating, Ventilation, & A/C, Boiler	\$4,000,000	\$4,000,000	\$3,361,600
Campus Classrooms: Renewal	\$3,988,400	\$3,650,000	\$0
Showalter Hall Auditorium: Preservation	\$977,800	\$977,800	\$0
Monroe Hall Remodel	\$100,000	\$100,000	\$0
Replace Telecomm. Network/Cable	\$1,593,800	\$1,593,800	\$0
Agency Total	\$30,504,304	\$30,165,904	\$23,053,730
Central Washington University			
Black Hall: Design & Construction	\$27,244,400	\$27,244,400	\$26,369,300
Minor Works: Preservation	\$2,500,000	\$2,400,000	\$1,687,100
Hertz Hall Addition	\$125,000	\$125,000	\$125,000
Minor Works: Preservation	\$3,712,900	\$3,500,000	\$0
Minor Works: Program	\$3,000,000	\$2,500,000	\$0
Agency Total	\$36,582,300	\$35,769,400	\$28,181,400
The Evergreen State College			
Campus: Air Quality Improvement	\$1,021,321	\$1,021,321	\$528,896
Minor Works: Preservation	\$3,125,121	\$3,125,121	\$2,154,876
Emergency Repairs	\$238,000	\$238,000	\$0
Computer Network Phase III	\$162,000	\$162,000	\$162,000
Communications Building: Retrofit	\$1,726,300	\$1,726,300	\$1,726,300
Library Building Renovation	\$772,500	\$772,500	\$772,500
Biology Lab: Retrofit	\$78,800	\$0	\$0
Agency Total	\$7,124,042	\$7,045,242	\$5,344,572
Joint Center for Higher Education			
Riverpoint Campus Phase II: Predesign	\$60,000	\$3,310,000	\$3,310,000
Agency Total	\$60,000	\$3,310,000	\$3,310,000
Western Washington University			
Haggard Hall Renovation & Abate: Constr	\$21,088,405	\$21,088,405	\$17,352,985
Integrated Signal Distribution: Design	\$1,215,400	\$1,215,400	\$985,750
Recreation/P.E. Fields Phase I	\$3,172,200	\$2,666,000	\$2,535,200
Campus Services Facility	\$100,000	\$100,000	\$100,000
Wilson Library Renovation	\$105,000	\$105,000	\$105,000
Minor Works: Program	\$6,385,810	\$5,850,000	\$3,850,000
Minor Works: Preservation	\$1,350,000	\$1,300,000	\$0
Minor Works: Infrastructure Preservation	\$1,650,000	\$1,650,000	\$1,650,000
Agency Total	\$35,066,815	\$33,974,805	\$26,578,935

1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
Washington State Historical Society			
Complete WA State History Museum	\$250,000	\$300,000	\$300,000
Bremerton Shellbanks Retreat: Pres.	\$68,000	\$68,000	\$68,000
State Capital Museum: Compact Storage	\$270,800	\$0	\$0
Stadium Way Facility: Storage & Access	\$230,600	\$230,600	\$230,600
Stadium Way Facility: Preservation	\$487,500	\$487,500	\$487,500
State Capital Museum: Preservation	\$122,592	\$122,592	\$122,592
Agency Total	\$1,429,492	\$1,208,692	\$1,208,692
Eastern Washington State Historical Society			
Cheney Cowles Mus: Park Lot Grad & Resurf	\$285,000	\$285,000	\$285,000
Cheney Cowles Museum: Preservation	\$175,000	\$175,000	\$175,000
Agency Total	\$460,000	\$460,000	\$460,000
Community & Technical College System			
Bothell Collocated Campus-Phase I: Design	\$2,500,000	\$2,500,000	\$2,500,000
Project Artwork Consolidation Account	\$1	\$1	\$1
Repair and Minor Improvement	\$10,000,000	\$10,000,000	\$10,000,000
Repair Roofs	\$5,406,000	\$5,406,000	\$5,406,000
Repair HVAC	\$7,588,000	\$7,588,000	\$7,588,000
Repair Mechanical	\$1,262,000	\$1,262,000	\$1,262,000
Repair Electrical	\$2,192,000	\$2,192,000	\$2,192,000
Repair Exterior	\$2,419,000	\$2,419,000	\$2,419,000
Repair Interiors	\$1,254,000	\$1,254,000	\$1,254,000
Site Improvements	\$2,465,000	\$2,465,000	\$2,465,000
Minor Program Remodel and Improvements	\$14,002,000	\$13,300,000	\$13,300,000
Acq: Tacoma CC Gig Harbor	\$2,193,000	\$421,000	\$421,000
Construct Pierce College/Puyallup Phase II	\$12,852,618	\$12,852,618	\$12,852,618
Construct Skagit Valley College - Voc Bldg	\$2,320,000	\$2,320,000	\$2,320,000
Constr Whatcom CC LRC/Fine Arts/Student Cntr	\$7,930,000	\$7,930,000	\$7,930,000
No. Seattle CC - Vocational/Early Childhood	\$895,712	\$895,712	\$895,712
Everett CC - Instruction Technology Center	\$3,558,440	\$3,558,440	\$3,558,440
South Seattle Community College - ILARC	\$592,266	\$592,266	\$592,266
Design Bellevue CC - Classroom/Lab Space	\$0	\$587,000	\$587,000
Olympic College Satellite - Poulsbo	\$0	\$755,000	\$755,000
Constr Edmonds CC Classroom/Lab Bldg	\$12,343,480	\$12,343,480	\$12,343,480
Constr So. Puget Sound CC Tech Educ Bldg	\$6,430,000	\$6,430,000	\$6,430,000
Green River College Center for Info Tech: Construct	\$0	\$16,800,000	\$16,800,000
Clover Park Aircraft Training Building	\$0	\$2,100,000	\$2,100,000
Agency Total	\$98,203,517	\$115,971,517	\$115,971,517
Total Education	\$624,667,570	\$787,970,060	\$446,046,743
PRELIMINARY STATEWIDE TOTAL	\$1,554,148,958	\$1,639,565,234	\$811,149,839

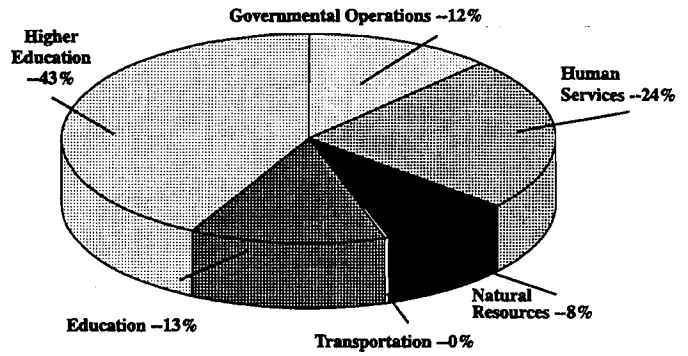
1995-97 Capital Budget (2ESHB 1070)

New Projects	Governor Lowry's Budget	Legislative Budget	Debt Limit Bonds
REAPPROPRIATION DELETIONS			
Dept of Community, Trade, & Economic Development			
7th Street Theater	\$0	(\$150,000)	(\$150,000)
Childhaven	\$0	(\$113,000)	(\$113,000)
Tears of Joy	\$0	(\$1,523,617)	(\$1,523,617)
Washington Technology Center: Equipment	\$0	(\$286,000)	(\$286,000)
Department of General Administration			
Heritage Park: Phased Development	\$0	(\$1,900,000)	(\$1,900,000)
Department of Social and Health Services			
ESH Legal Offenders Unit: Design & Const	\$0	(\$8,238,276)	(\$8,238,276)
Department of Corrections			
WCCW Mental Health/Seg/Reception	\$0	(\$1,389,123)	(\$1,389,123)
Western Washington Pre-Release	\$0	(\$3,734,800)	(\$3,734,800)
Department of Ecology			
Referendum 39 Waste Disposal Facilities	\$0	(\$2,229,000)	(\$2,229,000)
State Parks and Recreation Commission			
Lewis & Clark State Park: Equest. Cntr	\$0	(\$109,510)	(\$109,510)
Department of Fisheries and Wildlife			
Grandy Creek Hatchery	(\$3,306,000)	\$0	\$0
Clam & Oyster Beach Enhancement	\$0	(\$100,000)	(\$100,000)
University of Washington			
Meany Hall: Exterior	\$0	(\$300,000)	\$0
Harborview Medical Center Building	(\$3,100,000)	\$0	\$0
Wellington Hills Sale	(\$6,000,000)	(\$6,000,000)	(\$6,000,000)
Eastern Washington University			
Minor Works repairs, renovation, preservation	\$0	(\$262,000)	(\$262,000)
Community & Technical College System			
Unforeseen Repairs	\$0	(\$480,529)	(\$480,529)
Total Reappropriation Deletions	(\$12,406,000)	(\$26,335,326)	(\$26,515,855)
Preliminary Statewide Total	\$1,554,148,958	\$1,639,565,234	\$811,149,839
Total Reappropriation Deletions	(\$12,406,000)	(\$26,335,326)	(\$26,515,855)
REVISED STATEWIDE TOTAL	\$1,541,742,958	\$1,613,229,908	\$784,633,984

1995-97 Capital Budget (2ESHB 1070)

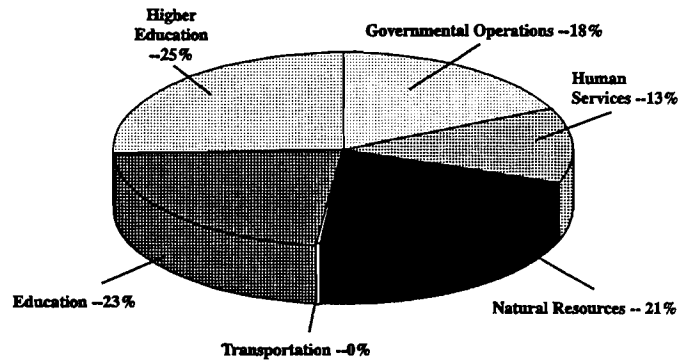
DEBT LIMIT BONDS

Governmental Operations	\$100,957,126
Human Services	\$193,437,160
Natural Resources	\$68,929,400
Transportation	\$1,679,410
Education	\$104,338,692
Higher Education	\$341,708,051
Statewide Total	\$811,049,839



TOTAL NEW APPROPRIATIONS

Governmental Operations	\$297,110,391
Human Services	\$206,215,196
Natural Resources	\$345,851,904
Transportation	\$1,679,410
Education	\$372,938,692
Higher Education	\$415,031,368
Statewide Total	\$1,638,826,96



1995-97 Transportation Budget — 2ESHB 2080

(Dollars in Thousands)

TOTAL APPROPRIATED FUNDS

	1993-95 Estimated Expenditures	Enacted	Difference
Legislative Transportation Commission	2,584	2,528	(56)
LEAP Committee	410	205	(205)
Joint Legislative Systems Committee	0	40	40
Special Appropriations to the Governor	8,440	3,965	(4,475)
Office of the State Treasurer	44	44	0
Office of the State Auditor	328	0	(328)
Dept Community, Trade, & Econ Development	582	251	(331)
Office of Financial Management	110	110	0
Board of Pilotage Commissioners	218	260	42
Utilities and Transportation Commission	220	222	2
WA Traffic Safety Commission	5,145	6,688	1,543
County Road Administration Board	87,888	65,424	(22,464)
Transportation Improvement Board	134,864	189,664	54,800
Marine Employees' Commission	372	345	(27)
Transportation Commission	1,603	677	(926)
Air Transportation Commission	366	0	(366)
Department of Ecology	0	2,704	2,704
State Parks and Recreation Commission	2,000	400	(1,600)
State Parks and Recreation Commission	1,174	927	(247)
State Parks and Recreation Commission	3,174	1,327	(1,847)
Office of Marine Safety	4,268	1,078	(3,190)
Department of Agriculture	418	300	(118)
Washington State Patrol	217,042	214,662	(2,380)
Department of Licensing	147,402	145,358	(2,044)
Department of Transportation	2,779,505	2,481,001	(298,504)
Statewide Total	3,394,983	3,116,853	(278,130)

1995-97 Transportation Budget—2ESHB 2080

CH. 14, LAWS OF 1995, 2ND SPECIAL SESSION (PV) HIGHLIGHTS

Department of Transportation (WSDOT)

- Shifts nearly \$60 million from WSDOT operations and administration to capital projects through cost efficiencies and program reductions.
- Funds over 30 high occupancy vehicle (HOV) projects for \$247 million, including \$47 million for two delayed HOV projects that will be funded pending a favorable settlement of the gasohol lawsuit or public approval of the repeal of the gasohol exemption. **(Note: The Governor vetoed \$10 million of HOV funding from two transit-related accounts. This leaves a total of \$237 million for HOVs.)**
- Begins construction on \$95 million of urban/rural capacity improvement projects committed to in the 1990 transportation revenue package. These projects would not have been constructed under the Transportation Commission's "no new revenue" proposal.
- Provides \$34.5 million for intercity rail passenger facilities and services including \$12 million for lease-purchase of two Talgo-type train sets, provided the train sets are assembled in Washington State. Supports the new service from Seattle to Vancouver, B.C., including service to Everett, Mt. Vernon and Bellingham, and continues state-supported service from Seattle to Portland.
- Makes available \$5 million in Federal Surface Transportation Program enhancement funds to preserve freight rail corridors for future freight rail service and to begin renovation of the King Street Station in Seattle. **(Note: This item was vetoed.)**
- Increases funding from \$1.5 million in 1993-95 to \$2.5 million for the Rural Mobility Program to assist those areas of the state having little or no public transportation.
- Funds the acquisition of a new prototype passenger-only ferry for the Washington State Ferry System using revenue from a newly-created Passenger Ferry Account.
- Provides \$289 million to fund pavement preservation on state highways. This amount represents an increase of \$36 million over the amount requested by WSDOT, but is still about \$20 million less than projected needs.
- Appropriates an additional \$6.5 million for construction of all-weather roads (for a new total of \$20 million) in order to reduce road closures and weight restrictions on critical sections of our state's highways.
- Provides first-year funding for the public-private initiatives program.
- Makes available \$5 million for infrastructure associated with the new horse racetrack in Western Washington.
- Provides \$2.2 million for removal of fish barriers on state highways, an increase of \$400,000 over the agency request.
- Appropriates \$2.7 million to address congestion at the Blaine border crossing, contingent upon the project being designated a federal demonstration project.
- Provides funding to address fuel tax evasion, vehicle license fraud, and access management, and to evaluate WSDOT's organizational structure and administration. **(Note: This item was vetoed.)**
- Reduces WSDOT staff by over 540 FTEs compared to the 1993-95 authorized level.
- Funds WSDOT construction projects without the use of new bond authorizations.

Washington State Patrol and Department of Licensing

- Continues to use transportation funds to pay for \$17 million of General Fund activities assumed in 1993 for the Washington State Patrol (WSP) and the Department of Licensing (DOL). This cost is mitigated by the return of the \$3.80 of the \$14 driver license fee that has been deposited into the general fund since the early 1970s. This shift will free up \$7.8 million of highway moneys that had been diverted to DOL to cover budget shortfalls.
- Adds funding to prevent closure of four Driver Licensing Examination Offices throughout the state.
- Continues development of the Licensing Application Migration Project (LAMP) by providing \$15.2 million for fiscal year 1996 costs.
- Establishes trooper level of 735 in State Patrol field force during the 1995-97 biennium, an increase of 35 over the 1993-95 level.
- Increases salaries by 9% during the biennium for commissioned, commercial vehicle enforcement, and communications officers to prevent attrition and achieve parity with officers in other law enforcement agencies..
- Provides funding to WSP for an increased effort to identify and collect revenues associated with vehicle license fraud.
- Continues collocation of DOL, WSP, WSDOT facilities to provide “one-stop” transportation services.

Other Agencies

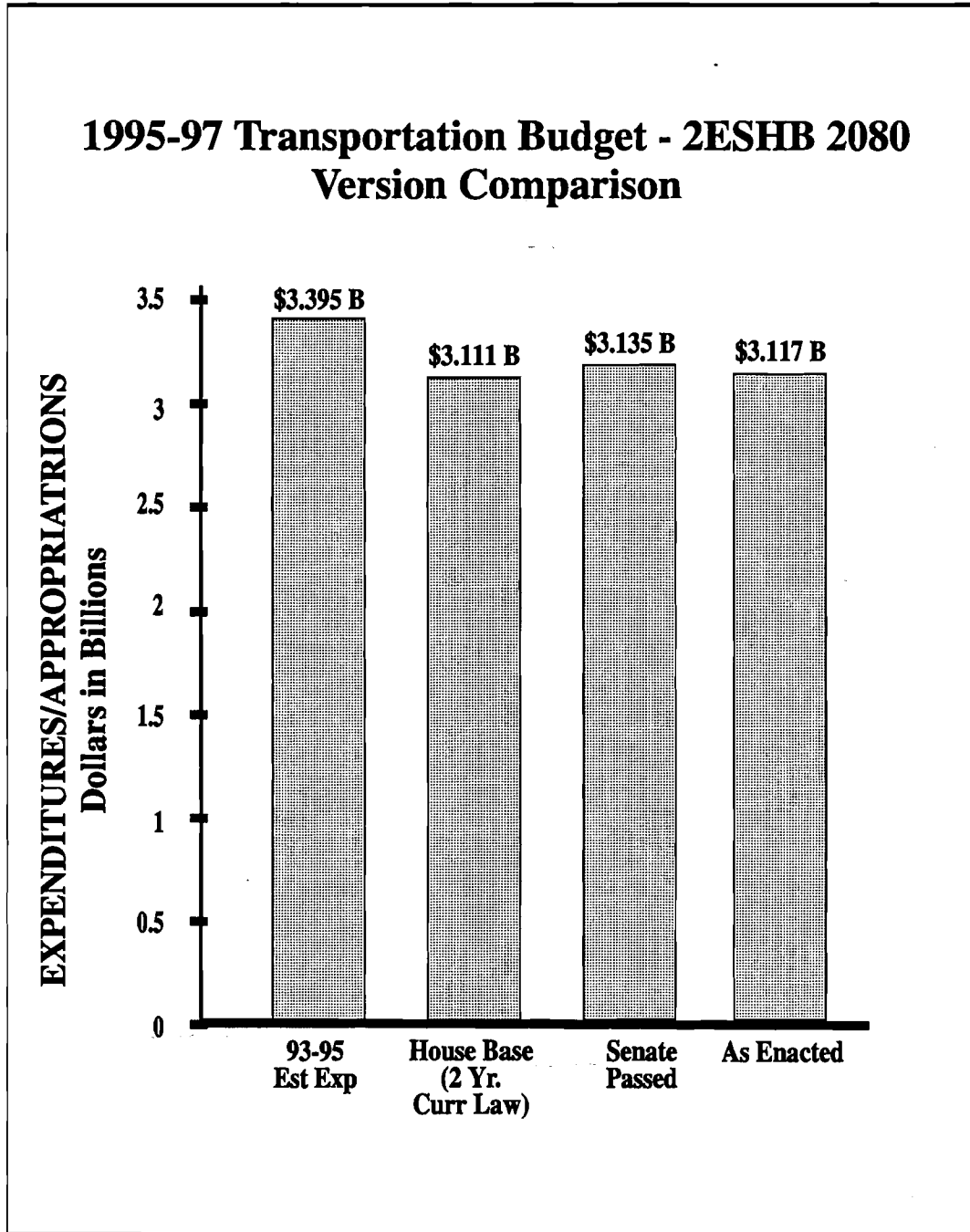
- Provides a reappropriation of \$700,000 and a new appropriation of \$1.8 million to the Regional Transit Authority (RTA) to continue development of a revised regional plan to present to voters in Spring 1996. **(Note: The Governor vetoed the requirement that a regional plan be presented to voters in Spring 1996.)**
- Appropriates \$750,000 for development of a regional mobility plan, to serve as an alternative to the plan developed by the RTA. **(Note: This item was vetoed.)**
- If no positive vote by May 31, 1996, the RTA is abolished and high capacity transportation taxing authority reverts to transit agencies in King, Pierce, and Snohomish counties. **(Note: This item was vetoed.)**
- Merges the Office of Marine Safety (OMS) into the Department of Ecology as of January 1, 1996. OMS administers programs to prevent oil spills in Washington State waters.
- Increases funding for Traffic Safety Commission DWI task forces from \$300,000 to \$900,000 and funds new programs targeted at reducing the incidence of drug-related accidents.
- Provides funding to the Department of Community, Trade and Economic Development to retain seven gateway visitor information centers.

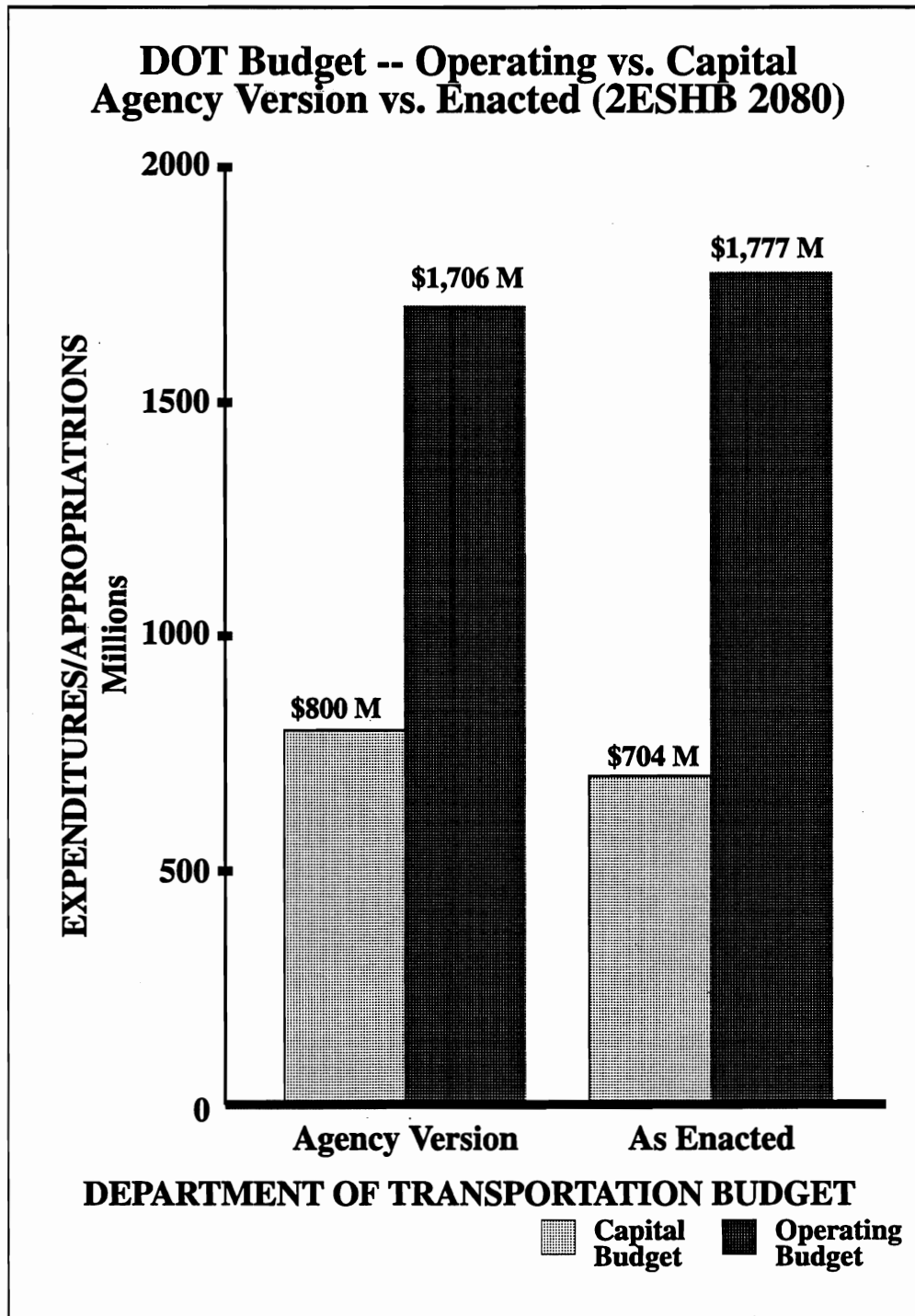
Total Transportation Budget

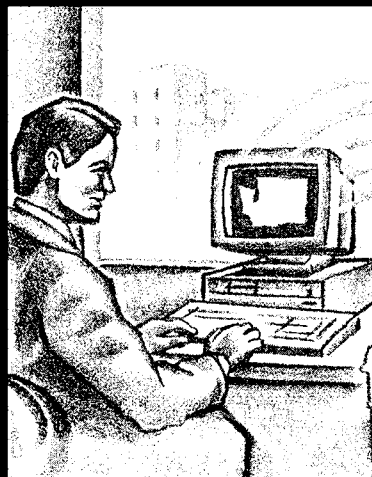
1993-95 Estimated Expenditures: \$3.395 billion

1995-97 Appropriations: \$3.130 billion

(Total with vetoes: \$3.117 billion)







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Individuals wishing to read and work with current bills, the Revised Code of Washington, and other legislative material no longer have to travel to Olympia or a large library. LEGLink offers online access to the text of legislative documents, session information, and searching features. First initiated during the 1994 Session, LEGLink exhibited extensive growth and use during the 1995 Session.

LEGInfo, another new service provided by the Legislature, offers no-cost access to legislative information over the Internet.

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3ESHB	1317	Transportation systems & facilities	C 19	L 95	E2
2SHB	1318	Washington scholars program	C 5	L 95	E1
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ESHB	1389	Apprentice opticians	C 178	L 95	
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SHB	1401	Juvenile record/disclosure	C 324	L 95	
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2E2SHB	2010	Corrections	C 19	L 95	E1 PV
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HB	2063	Public works assistance program	C 363	L 95	
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2ESHB	2080	Transportation funding	C 14	L 95	E2 PV
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ESSB	5190	Tattooing of minors	C 373	L 95	
SB	5200	Naval equipment transfer/tax	C 128	L 95	
2ESSB	5201	Manufacturing/processing tax	C 3	L 95	E1
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ESB	5243	Miniature boilers	C	41	L	95	
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SSB	5326	Sex offender registration	C	248	L	95	
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SSB	5333	Trust funds investment	C	307	L	95	PV
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SSB	5335	Investment securities/UCC	C	48	L	95	
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SSB	5419	Public assistance/health care	C	34	L	95	
SSB	5421	Background checks	C	250	L	95	
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SB	5432	Insurance company reserves	C	35	L	95	
SB	5433	Insurers' investments	C	84	L	95	
SB	5434	Insurance agent licensing	C	338	L	95	
SSB	5435	Medicare policies limitations	C	85	L	95	
ESB	5437	Insurance company disclosures	C	86	L	95	
E2SSB	5439	Nonoffender at-risk youth	C	312	L	95	PV
SSB	5440	Firearms on school property	C	87	L	95	
SSB	5443	Property tax hearings	C	251	L	95	
SB	5445	Abandoned vehicles	C	219	L	95	
E2SSB	5448	Public water systems	C	376	L	95	PV
SSB	5463	Alcohol servers permits	C	51	L	95	
SSB	5479	School transfers/open enrollment	C	52	L	95	
ESSB	5503	Temporary worker housing	C	220	L	95	
SB	5520	Placement of children	C	53	L	95	
SB	5523	Criminal defendants' costs	C	221	L	95	
2ESB	5529	School district levies	C	11	L	95	E1
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SB	5544	Shoreline/oil and gas exploration	C	339	L	95	
SSB	5551	Lodging excise tax	C	340	L	95	
2ESB	5555	Massage services taxation	C	12	L	95	E1 PV
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SSB	5567	Single-family residential neighborhood	C	377	L	95	
2SSB	5574	Forest board transfer lands	C	334	L	95	
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ESB	5770	Unemployment insurance claimants	C 381	L 95	PV
SB	5771	Unemployment insurance liability/employer	C 120	L 95	
ESB	5776	Growth management/water resource	C 382	L 95	
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SSB	5800	Developmental disabilities service	C 383	L 95	
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2ESB	5852	Presidential primary	C 20	L 95	E1
SSB	5854	Women's health care	C 389	L 95	
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ESSB	5868	Mobile home relocation assistance	C 122	L 95	
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ESSB	5880	Disabled spouse care/retirement	C 308	L 95	
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SSB	5957	Plat and subdivision easements	C	32	L	95	
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SSB	5977	Forensic investigations	C	398	L	95	
SB	5990	Excess compensation	C	387	L	95	
SSB	5992	Work force training/education	C	130	L	95	
SSB	5997	Fireworks regulation	C	61	L	95	
ESB	5998	On-site sewage system waiver	C	263	L	95	
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2ESSB	6049	Public sports stadiums	C	14	L	95	E1
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C	21	L	95	Municipal ordinance information pool	SB	5042
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C	28	L	95	Municipal research council funding	SB	5274
C	29	L	95	Background checks	SB	5330
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C	40	L	95	Juvenile offender basic training	SSB	5234
C	41	L	95	Miniature boilers	ESB	5243
C	42	L	95	Transportation authority/cities	SB	5251

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C	43	L	95	Public health improvement plan	ESSB	5253
C	44	L	95	Self defense/awards	SSB	5278
C	45	L	95	Fire fighters' retirement	SB	5294
C	47	L	95	Corporations act	SSB	5334
C	48	L	95	Investment securities/UCC	SSB	5335
C	49	L	95	Family day-care providers	SB	5351
C	50	L	95	Failure to obey an officer	SSB	5367
C	51	L	95	Alcohol servers permits	SSB	5463
C	52	L	95	School transfers/open enrollment	SSB	5479
C	53	L	95	Placement of children	SB	5520
C	54	L	95	Fetal alcohol syndrome	SSB	5688
C	55	L	95	Hotel liquor licenses	SB	5563
C	56	L	95	Unemployment insurance contribution	SB	5583
C	57	L	95	Unemployment insurance experience rate	SB	5584
C	58	L	95	Air pollution control authority	SSB	5609
C	59	L	95	Hunting licenses	SB	5625
C	60	L	95	International student exchange	SB	5699
C	61	L	95	Fireworks regulation	SSB	5997
C	62	L	95	Personal property liens	HB	1086
C	63	L	95	For hire vehicles/taxation	HB	1157
C	64	L	95	Osteopaths/discrimination	HB	1360
C	65	L	95	Emergency medical service profession	SHB	1427
C	66	L	95	Defacement of state monuments	HB	1433
C	67	L	95	Asian Pacific American affairs	HB	1457
C	68	L	95	Final plat approval	HB	1624
C	69	L	95	Energy plant output measurement	HB	1761
C	70	L	95	Hazardous substance/lender liability	SHB	1856
C	71	L	95	Code cities/codes and statutes	SB	5043
C	72	L	95	Insurance premium finance agreement	SB	5078
C	73	L	95	Service of orders	SSB	5164
C	74	L	95	Negotiable instruments/statute of limitations	SB	5165
C	75	L	95	Judgments	SSB	5166
C	76	L	95	Children's statements/admissible	SSB	5214
C	77	L	95	Children with disabilities	ESB	5276
C	78	L	95	Deer and elk damage claims	SB	5355
C	79	L	95	Fire protection district merger	SB	5369
C	80	L	95	Expert witness contracts	SB	5398
C	81	L	95	Injured workers/medical benefit	SB	5401
C	82	L	95	State arboretum	SSB	5410
C	83	L	95	Insurance company capital/surplus	SB	5430
C	84	L	95	Insurers' investments	SB	5433
C	85	L	95	Medicare policies limitations	SSB	5435
C	86	L	95	Insurance company disclosures	ESB	5437
C	87	L	95	Firearms on school property	SSB	5440
C	88	L	95	Redistricting commission	SSB	5764
C	89	L	95	Municipal irrigation assessment district	SB	5767
C	90	L	95	Unemployment compensation overpayments	SSB	5769

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C 91	L 95	Power of appointment release	SSB	5804
C 92	L 95	Telecommunications/cable service theft	ESSB	5820
C 93	L 95	Restraining orders	SSB	5835
C 94	L 95	Public works subcontracting	SB	5857
C 95	L 95	Plumbers advisory board	SB	5871
C 96	L 95	Mental health services	SSB	5918
C 97	L 95	Washington state grown	SSB	6026
C 98	L 95	Private property regulation	INIT	164
C 99	L 95	Metro park district taxes	ESHB	1452
C 100	L 95	Liquor act enforcement	HB	1059
C 101	L 95	Juvenile serious violent offenses	SHB	1062
C 102	L 95	Port district debt limits	HB	1068
C 103	L 95	Emergency service medical personnel	HB	1213
C 104	L 95	Salmon charter licenses	HB	1226
C 105	L 95	Amateur radio repeater sites	SHB	1437
C 106	L 95	Adopt-a-highway programs	ESHB	1512
C 107	L 95	Bank information for customers	HB	1525
C 108	L 95	Drug offender sentencing	SHB	1549
C 109	L 95	Commodity commission assessment	SHB	1671
C 110	L 95	Small telecommunications companies	SHB	1744
C 111	L 95	School bond levy disclosures	SHB	1777
C 112	L 95	Consumer leases	SHB	1873
C 113	L 95	PV DNR emergency response contracts	SHB	1917
C 114	L 95	Mining claims	HB	2022
C 115	L 95	Crown Hill elementary school	SB	5075
C 116	L 95	Game fish catch record cards	ESSB	5101
C 117	L 95	Clark county superior court judge	2SSB	5235
C 118	L 95	Public works board project funds	SB	5372
C 119	L 95	Community/technical college employee leave	SSB	5647
C 120	L 95	Unemployment insurance liability/employer	SB	5771
C 121	L 95	School district budgets	SB	5806
C 122	L 95	Mobile home relocation assistance	ESSB	5868
C 123	L 95	Surplus property disposal	SB	5882
C 124	L 95	Sewerage/storm water control	ESB	5888
C 125	L 95	Transportation department wetlands	SB	5894
C 126	L 95	School district liability insurance	SB	6011
C 127	L 95	Harassment of child	SSB	6028
C 128	L 95	Naval equipment transfer/tax	SB	5200
C 129	L 95	Penalties for armed crimes	INIT	159
C 130	L 95	Work force training/education	SSB	5992
C 131	L 95	Water/sewer service extension	SSB	5209
C 132	L 95	Anatomical gifts by minors	SB	5575
C 133	L 95	Pawnbrokers' loans	HB	1012
C 134	L 95	Double amendments correction	HB	1015
C 135	L 95	RCW technical corrections	HB	1063
C 136	L 95	Vehicle violation/jurisdiction	HB	1087
C 137	L 95	General administration department funds	HB	1112

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C 139	L 95	Election canvassing boards	SHB	1233
C 140	L 95	Electric/gas connection charge	SHB	1241
C 141	L 95	Private school buses	SHB	1246
C 142	L 95	Offenders/sentencing violation	HB	1280
C 143	L 95	Silvicultural burning	SHB	1287
C 144	L 95	Retirement system death benefit	HB	1295
C 145	L 95	Retiree benefits calculation	HB	1297
C 146	L 95	Port district rates and charges	HB	1343
C 147	L 95	Shellfish sanitation enhancement	SHB	1404
C 148	L 95	Maritime commission	HB	1407
C 149	L 95	Summaries of judgments	HB	1450
C 150	L 95	Historic preservation advisory council	HB	1468
C 151	L 95	Forest wild fires	SHB	1483
C 152	L 95	Insurance exam expenses	HB	1501
C 153	L 95	Aeronautics	HB	1866
C 154	L 95	Jail industries	SHB	1929
C 155	L 95	Governor's budget document	SHB	2060
C 156	L 95	Luring minors/developmentally disabled	SB	5039
C 157	L 95	Publication of legal notices	SB	5060
C 158	L 95	Write-in candidates	SB	5267
C 159	L 95	Border area funds distribution	SB	5378
C 160	L 95	Workers' compensation penalties	SSB	5402
C 161	L 95	Viatical settlements	SSB	5780
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C 163	L 95	Liquor vendors' appeals	HB	1058
C 164	L 95	Public works/residential employ	HB	1064
C 165	L 95	Property tax/hardwood trees	SHB	1067
C 166	L 95	IAC outdoor recreation accounting	ESHB	1076
C 167	L 95	Felons' additional crimes	HB	1081
C 168	L 95	Benton county district court	HB	1176
C 169	L 95	Criminal history information dissemination	HB	1189
C 170	L 95	Transportation fund	HB	1190
C 171	L 95	Vehicle load fees	SHB	1192
C 172	L 95	Air operating permits/SEPA	SHB	1220
C 173	L 95	Horse racing	ESHB	1247
C 174	L 95	Pilotage services	HB	1310
C 175	L 95	Pilotage licenses	HB	1311
C 176	L 95	Tuition recovery trust fund	HB	1321
C 177	L 95	Muckleshoot Tribe criminal jurisdiction	HB	1362
C 178	L 95	Apprentice opticians	ESHB	1389
C 179	L 95	Acting in course of employment	SHB	1414
C 180	L 95	County tax statements	SHB	1432
C 181	L 95	Employee suggestion program	HB	1465
C 182	L 95	Heritage capital projects	SHB	1507
C 183	L 95	Mental health counselors	HB	1532
C 184	L 95	Criminal trespass/arrest	EHB	1550

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C 187	L 95		Dishonored check fee	HB	1771
C 188	L 95	PV	City/county health departments	HB	1790
C 189	L 95		Corrections department records	HB	1893
C 190	L 95	PV	Industrial development siting	ESB	5019
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C 192	L 95		Government payment agreements	SB	5142
C 193	L 95		County fiscal biennium budget	SSB	5182
C 194	L 95		County auditors	SSB	5183
C 195	L 95		Sex offender registration	SB	5239
C 196	L 95		City/town consolidation	SB	5275
C 197	L 95		Tax information disclosure	SB	5282
C 198	L 95		Health professional examination	SSB	5308
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C 200	L 95		State horse park	SSB	5403
C 201	L 95		Donated property/use tax	SB	5755
C 202	L 95		Tulalip Tribe jurisdiction	SB	5848
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C 206	L 95		Outdoor burning/nonurban area	ESHB	1080
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C 208	L 95		Educational waivers	HB	1224
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C 211	L 95		Parks renewal/stewardship account	SHB	1342
C 212	L 95		Local government/federal and private funds	SHB	1517
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C 233	L 95	PV	Retirement contribution rate	EHB	1131
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C 238	L 95		Escrow agents	SHB	1348
C 239	L 95	PV	Retirement systems restructured	ESHB	1206
C 240	L 95		Privileged communications	HB	1425
C 241	L 95		Crime victims advocacy office	HB	1858
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C 243	L 95		911 compatibility	SSB	5089
C 244	L 95		Excess compensation/retirement	SSB	5118
C 245	L 95		LEOFF death benefits	SB	5120
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C 268	L 95		Sex offense/definition	HB	1088
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C 272	L 95		Commercial vehicle safety	ESHB	1209
C 273	L 95		Law enforcement officers/arbitration	ESHB	1730
C 274	L 95		Vehicle and fuel licenses	HB	1225
C 275	L 95		Indigent persons court costs	SHB	1237
C 276	L 95		Industrial insurance award payment	SHB	1250
C 277	L 95	PV	Security guards/private invest	ESHB	1679
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C 283	L 95		Homeowners' associations	ESHB	1471
C 284	L 95		Teacher internship credits	ESHB	1518
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C 307	L 95	PV	Trust funds investment	SSB	5333
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C 316	L 95		Criminal history/sentencing	SHB	1140
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C 330	L 95		Property tax/current use	SHB	1700
C 331	L 95		UTC hearings	SHB	1722
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Scott Lukins

**COMMUNITY AND TECHNICAL
COLLEGES BOARDS OF TRUSTEES**

Bates Technical College District No. 28
Jack G. Skanes

Bellevue Community College District No. 8
Bruce F. Baker
Sally Jarvis
Robert J. Margulis

Bellingham Technical College District No. 25
James H. Freeman

Big Bend Community College District No. 18
Paul Hirai
Felix Ramon

Cascadia Community College District No. 30
Dianne Campbell
Gloria Mitchell
Dennis Stefani
Robert Tjossem
Roger Yockey

Centralia Community College District No. 12
Arland Lyons

Clark Community College District No. 14
Charles W. Fromhold

Clover Park Technical College District No. 29
William L. Hamilton

**Columbia Basin Community College District
No. 19**
Frank Armijo
Emmitt Jackson
Lonna K. Malone-Purtle

Edmonds Community College District No. 23
Charles D. Kee
Alison Sing

Everett Community College District No. 5
Virginia Sprenkle

Gubernatorial Appointments Confirmed

**Grays Harbor Community College District
No. 2**

Lynne Glore
Guy McMinds

**Green River Community College District
No. 10**

David Schodde

Highline Community College District No. 9

Karen Keiser

**Lake Washington Technical College District
No. 26**

Elling B. Halvorson
Robert Patterson

**Lower Columbia Community College District
No. 13**

Donna DeJarnatt

Olympic Community College District No. 3

Barbara Stephenson

Peninsula Community College District No. 1

Barbara A. Koerber
Dan C. Wilder

Pierce Community College District No. 11

Ramon L. Barnes

Renton Technical College District No. 27

James V. Medzegian

**Seattle, So. Seattle and No. Seattle Community
Colleges District No. 6**

Dr. Carver Gayton
Phyllis G. Kenney

Shoreline Community College District No. 7

Sarah Phillips

**Skagit Valley Community College District
No. 4**

Debbie Aldrich

**South Puget Sound Community College District
No. 24**

Ed Mayeda
Donald V. Rhodes

**Spokane and Spokane Falls Community
Colleges District No. 17**

Girard Clark

Tacoma Community College District No. 22

Alberta J. Canada
Dennis G. Seinfeld

**Walla Walla Community College District
No. 20**

Dr. Donald S. Schwerin

**Wenatchee Valley Community College District
No. 15**

Grace L. Lynch

Whatcom Community College District No. 21

Philip E. Sharpe, Jr.

**Yakima Valley Community College District
No. 16**

Dorothy L. Aiken
James D. Horton
Ann Miller

STATE BOARDS, COUNCILS AND COMMISSIONS

Apprenticeship and Training Council

Bruce F. Brennan

State School for the Blind

Don Simmonson
Denise Mackenstadt

Clemency and Pardons Board

Paula T. Crane
Samuel R. Johnston
Reginald T. Roberts

Gubernatorial Appointments Confirmed

Gambling Commission

Wanda Mosbarger

Eastern Washington State Hospital Advisory Board

Dr. Dennis Dyck

John Murphy

Western Washington State Hospital Advisory Board

Dr. Dean K. Brooks, Chair

Ruth J. Hagerott

Dr. Jess Jamieson

Fran Lewis

Housing Finance Commission

Lee D. Lannoye

Human Rights Commission

Craig Cole

Helen Donigan

Indeterminate Sentence Review Board

Kathryn S. Bail, Chair

Julia L. Garratt

Investment Board

Gary Moore

Lottery Commission

James S. Hattori, Chair

Marine Employees' Commission

John P. Sullivan

Interagency Committee for Outdoor Recreation

William S. Fearn

Mary Ann Huntington

Donna M. Mason

Parks and Recreation Commission

Clyde B. Anderson

Robert C. Petersen

Personnel Appeals Board

Charles Alexander

Art Wang

Personnel Resources Board

Eugene Matt

Board of Pilotage Commissioners

Peter Badame

Tom Leschine

Benjamin L. Watson

William S. Williams

Pollution Control Shoreline Hearings Board

James A. Tupper, Jr.

Public Disclosure Commission

Donald H. Brazier

Jocelyn H. Marchisio

Public Employment Relations Commission

Joseph W. Duffy

Sam Kinville

Puget Sound Water Quality Authority

Tim Douglas

Larry Phillips

Hugh Spitzer

Sentencing Guidelines Commission

Thomas A. Metzger

Dr. Donna D. Schram

Cyrus Vance, Jr.

Tax Appeals Board

Matthew J. Coyle

Transportation Commission

Eugene G. Patterson

Richard Thompson

Work Force Training and Education Coordinating Board

John Carter

1995 Legislative Officers and Caucus Officers

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Jim Horn Speaker Pro Tempore
Dale Foreman Majority Leader
Todd Mielke Majority Caucus Chairman
Larry Sheahan Caucus Vice Chairman
Gigi Talbott Majority Whip
Jack Cairnes Assistant Majority Whip
Lois McMahan Assistant Majority Whip
Eric Robertson Assistant Majority Whip
Mike Padden* Majority Floor Leader
Val Stevens Asst. Majority Floor Leader
Mark Schoesler Asst. Majority Floor Leader

Democratic Leadership

Brian Ebersole Minority Leader
Marlin Appelwick Minority Floor Leader
Bill Grant Minority Caucus Chair
Lisa Brown Minority Whip
Julia Patterson Asst. Minority Floor Leader
Frank Chopp Assistant Minority Whip
Dawn Mason Assistant Minority Whip

Timothy A. Martin Chief Clerk
Sharon Hayward Deputy Chief Clerk
Ron Finley Sergeant-At-Arms

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R. Lorraine Wojahn President Pro Tempore
Rosa Franklin Vice President Pro Tempore
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Brad Hendrickson Deputy Secretary
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Harriet A. Spanel Majority Floor Leader
Valoria H. Loveland Majority Whip
Betti L. Sheldon Caucus Vice Chair
Michael Heavey Majority Asst. Floor Leader
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Irv Newhouse Republican Floor Leader
Ann Anderson Republican Whip
Emilio Cantu Republican Deputy Leader
Harold Hochstatter Caucus Vice Chair
James E. West Republican Asst. Floor Leader
Jeannette Wood Republican Assistant Whip

**Resigned 3/28/95*

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Cathy McMorris, *V. Chairman*
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David Chappell
Jim Clements
Jerome Delvin
Ruth Fisher
Jim Honeyford
Peggy Johnson
Pete Kremen
Dave Mastin
Erik Poulsen
Debbie Regala
Eric Robertson
Nancy Rust
Mark Schoesler

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Tom Huff, *V. Chairman*
Grant Pelesky, *V. Chrmn*
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Barney Beeksma
Bill Brumsickle
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David Chappell
Suzette Cooke
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Steve Hargrove
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Ken Jacobsen
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Cathy McMorris
Erik Poulsen
Bill Reams
Nancy Rust
Barry Sehlin
Larry Sheahan
Helen Sommers
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Bob Morton
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See Senate Ways & Means

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Shirley Hankins
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Maryann Mitchell
Val Ogden
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Debbie Regala
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Jim Buck
Michael Carrell
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Gene Goldsmith
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see Senate Ways & Means

see Senate Human Services & Corrections

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David Quall
Renee Radcliff
Karen Schmidt
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see House Agriculture & Ecology

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see Senate Law & Justice

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Mary Skinner

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Kevin Quigley
Nita Rinehart
Pam Roach
Ray Schow

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Bob Morton
Bob Oke
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Dale Foreman
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Gigi Talcott

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Mary Skinner
Georgette Valle
Velma Veloria

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Sid Snyder
Harriet A. Spanel

see Senate Labor, Commerce & Trade

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Chairman*
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Chairman*
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Kip Tokuda

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Chair*
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Bob Oke
Margarita Prentice
Eugene A. Prince
Marilyn J. Rasmussen
Ray Schow
George L. Sellar
Jeannette P. Wood

see House

**Appropriations, Capital
Budget, Finance**

Senate Ways & Means

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Valoria H. Loveland, V.
Chair
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Emilio Cantu
Kathleen Drew
Bill Finkbeiner
Karen R. Fraser
Marcus S. Gaspard
Jim Hargrove
Harold Hochstatter
Stephen L. Johnson
Jeanine H. Long
Dan McDonald
John A. Moyer
Dwight Pelz
Kevin Quigley
Pam Roach
Betti L. Sheldon
Sid Snyder
Harriet A. Spanel
Gary Strannigan
Dean Sutherland
James E. West
Shirley J. Winsley
R. Lorraine Wojahn

**Resigned 3/28/95*

***Appointed 4/17/95*